COUNTY ADMINISTRATION IN THE REIGN OF GEORGE II

THE EXAMPLE OF SURREY

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SUMMARY

This thesis investigates the restructuring of local government in the reign of George II in the county of Surrey. The decay of mediaeval and Tudor institutions such as manors and church courts, the redefinition of the role of the Assizes in local administration, the ending of the isolation of the boroughs, the marked professionalisation of County Quarter Sessions contributed to a very considerable change in the nature of local government in the period.

The research opens with an introduction on the administrative relationship between central and county government, is then divided into three parts, each subdivided into chapters. Part one discusses forms of government at parish and borough level and charts the development of vestries and, against a background of municipal insecurity, assesses the reality of an urban renaissance in eighteenth century Surrey towns. Part two examines the important work of the court of Quarter Sessions and, in particular, the impact of administrative prescription on the individual Surrey inhabitant. Part three looks at the influence and social status of the county magistracy and their commitment and dedication to administrative work in the localities.

The importance of administrative procedure as an agency of social control in the eighteenth century is emphasised in the conclusion, which also stresses the uses of administrative history to the social historian.

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Reading, May 1986.

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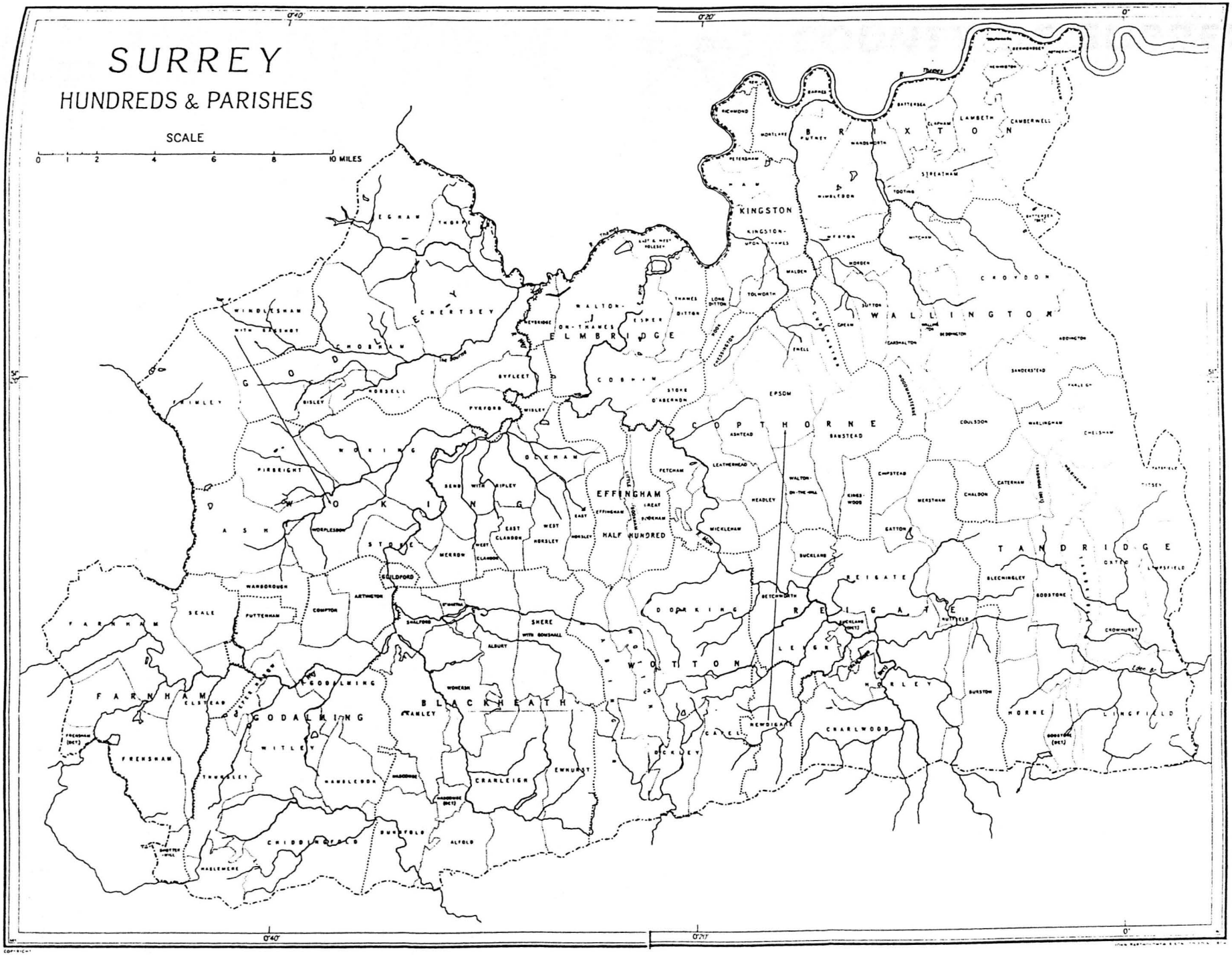
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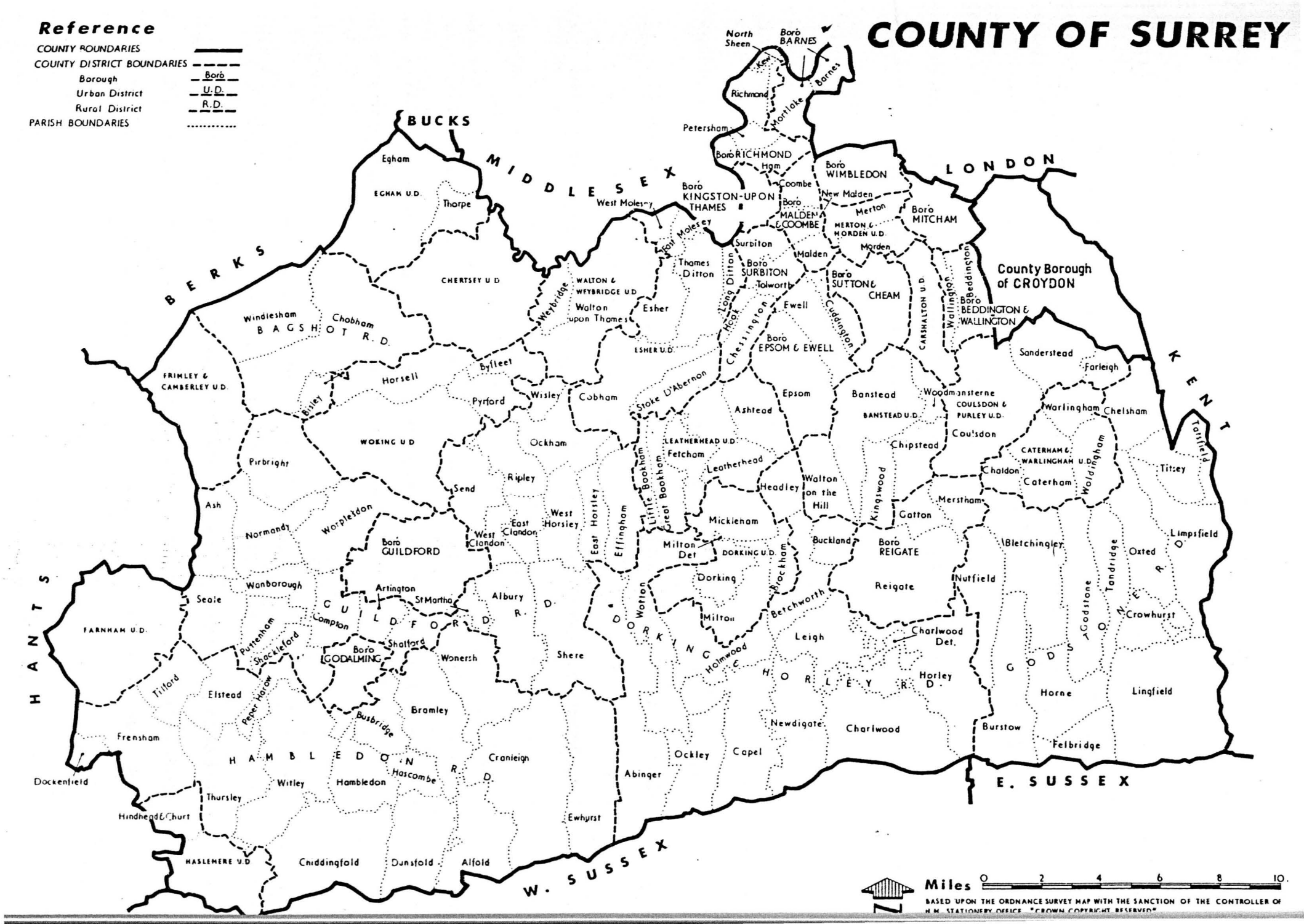
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BASED UPON THE ORDNANCE SURVEY MAP WITH THE SANCTION OF THE CONTROLLER OF H.M. STATIONERY OFFICE. "CROWN COPYRIGHT RESERVED"

PREFACE

This piece of research attempts to marry two traditionally separate areas of historical research - the perhaps outmoded study of local administration with the still current debate on social control (1) - in the context of a particular county in the eighteenth century. It is not my brief, however, to rewrite Dowsell, Moir, Thompson or Donajgrodzki for the county of Surrey, but rather to exploit, adapt and build on the methodological bases provided by social historians in an analysis of data used by administrative historians. My starting point, therefore, is the administration of local government, and even when I consider the fluctuating rate of indictments for instance (as I do in chapter three below), it is more for what such an investigation tells us about the administrative procedure of the court than for its import in the study of the patterns of criminality or contemporary definitions of criminal behaviour. Social control has been understood to require looking 'at the institutions through which the ruling ideology is transmitted' (2).

Two comments may be made at this stage. Firstly, the period under review witnessed a significant change in the nature of local government which has often been portrayed as an immutable structure whose stability was only considerably altered by nineteenth-century legislation notably the 1834

Poor Law and the 1888 County Councils Act. Yet, as is shown here, seventeenth-century vestries are very different from their eighteenth-century successors; the role of the Assize court in county administration became increasingly circumscribed; county Quarter Sessions operated very differently in 1760 as compared with the opening of the reign of George II. To assess such changes, incursions into preceding or succeeding periods has often proved necessary.

Secondly, apart from the changes which occurred from period to period one should mention the lack of uniformity of practice within the same period. In Surrey, the vestries of Woking and Leatherhead, for instance, had a different conception of their roles. Such distinctions existed also at county level. Even a superficial study of the Quarter Sessions material published by local record societies shows up many anomalies and idiosyncrasies.

Research in the field of local government has often been conducted in a vacuum, with little reference to pressures and controls from central authority. While it remains true that there existed fewer formal checks on the localities from central government in our period than in the seventeenth century, it is suggested here that a number of factors militated against a complete divorce. Most importantly, there was an overlap in personnel. In Surrey in the eighteenth century roughly one quarter of the

active Justices of the Peace were also members of Parliament. Thus the legislators were also frequently the law enforcers and implementers. Their role in local government is thus central to the development of the arguments of this thesis.

E.P. Thompson's Whigs and Hunters and the essayists of Albion's Fatal Tree have opened up many avenues of research and in particular have investigated the significance of the rule of law in the eighteenth century. Up to now, however, most of the work that has been undertaken in this field for eighteenth-century England has been done in connexion with the criminal law. What I have tried to show here is that many aspects of local administration were more open to control by the county establishment than the criminal process. One thinks, for instance, of the broad area of the poor law, much of which was set down by statute. The administration of the criminal law, of course, offers more extreme and startling examples than anything which mightbe brought up in the present research. But the arguments so lucidly put forward by Douglas Hay are weakened by thefact that he cites examples exclusively drawn from the criminal process through which the magistracy exercised power mostly over those individuals who put themselves beyond the pale by committing criminal acts. What is suggested here is that the power of the Justice, unchecked by jurors, in such issues as settlement and removal, for instance, was more pervasive

because it automatically affected many more people.

In the eighteenth century, the county of Surrey extended over a far larger area than it does today. Legislation passed in 1888 and 1963 reduced the size of the county which once included Rotherhithe (3): ironically, county hall,which is based in Kingston upon Thames, is thus no longer in the administrative area of the county.The 1801 census estimated the acreage of the county at 485,122 and its population at 286,233, of which more than one half lived in Southwark and the Eastern Division of the Hundred of Brixton (that is to say in roughly one quarter of the total area of the county). Although these figures depict the situation some forty years after the close of the period covered by this thesis, they still illustrate well the dichotomous outlook and social organisation of the county. The rest of Surrey was more homogeneous, Guildford and Kingston being the two most noted borough centres outside the metropolitan area. The contrast between rural and urban Surrey, a fact often stressed by contemporary commentators, was now and then temporarily obscured on occasions such as the Banstead races, an account of which was given by a traveller in 1752:

> How you would have wondered at the sight of such a multitude. See men & women, old men & children are hastening from all the neighbouring villages, as to a fair. Besides London has poured forth an overflowing deluge, a mixt assemblage of all sorts: there are assembled together the well bred

> & and the high born, there are plow-men & mechanics; there are men abounding with money, & there are men with none: - all mingle together as on a footing of equality, yet in a manner distinct from each other, whilst the ambitious elegance & splendour of the gentry is contrasted with the unruly turbulence of the throng. (4).

While agriculture was the most important occupation in the county in the eighteenth century, it would be a mistake to ignore its industries, the developments of some of which can be accounted for by the local geological structure. A summary of soils and landscapes in the county has been succinctly written by A.J. Stevens:

> The county of Surrey may be divided geologically, for the purposes of description, into three broad areas extending in a general sense east-west across the map. In the northern area lie all the solid rocks which are younger than the chalk. Area 2, a band of uneven width, but of triangular shape, is the outcrop of the rocks older than the chalk in that part of the Weald that is within the county limits. (5).

Thus building stone was extracted at Limpsfield and Godstone, iron from the Southern Wealden districts, glass was made at Chiddingfold (although the industry was transferred to Vauxhall at the beginning of our period). Other county features promoted the growth of different local industries. Gunpowder was made at Chilworth from the fourteenth to the nineteenth century, papermills were erected along the River Wey from the seventeenth century, and the cloth industry was well established in the west of

the county around Guildford, Godalming and Farnham. As might be expected the industries of the eastern urban side of the county, were more dependent on specialist skills. The leather and silk industries of Bermondsey were famous. Metropolitan Surrey benefited much from the knowledge of foreign workers who settled there. In Bermondsey, for instance, felt and hat making were closely associated with the Dutch community from the sixteenth century onwards while the calico printing trade of Mitcham was introduced by French immigrants in the seventeenth century. Other specialist industries developed in eastern Surrey with the help of immigrant workers, notably the Battersea enamels, Mortlake tapestry and Southwark distilling. From small early beginnings, the brewing industry had established itself as very important to the county economy by the end of the seventeenth century. In the eighteenth century there were breweries in Southwark, Kingston, Wandsworth, Putney and Mortlake. Less conspicuously, the vinegar making industry, started in the seventeenth century by Quaker entrepreneurs, was so successful that by the nineteenth century half of all English vinegar was made in Surrey (6).

As we shall see, these quite diverse interests were represented in the county establishment. Big brewers like the Thrales and distillers like Sir Joseph Mawbey were accepted into the Commission of the Peace for the county. Nor was it unacceptable for established families like the

Claytons to exploit a freestone quarry in Godstone. In 1656 the Onslow family acquired the mill at Catteshall and within a few years of purchase converted its use from fulling to the more profitable undertaking of paper-making (7).

A number of court cases attest to the variety of financial and business ventures engaged in by Surrey Justices. Maltis Ryall was involved in buying rubbish from the London scavengers and selling it to masters of river boats as ballast, a transaction which led to his prosecution by the Master and Wardens of the Corporation of Trinity House in whom the 'lastage and ballastage' for ships in the Thames was vested (8). Justice Chitty's business entailed the importation of raisins on which he claimed in the Court of the Exchequer in 1746 that less tax should be paid as they were smaller than the dried fruit for which provision had been made in the rating tables (9). Justice Belchier, MP for Southwark in the course of our period, a banker who himself eventually became bankrupt and who for a long time had the ear of Newcastle and Hardwicke had extensive banking interests which sometimes required the prosecution of bankrupts and their executors (10). Less controversially, perhaps, Justice Jervoise was involved in a court case which was pursued through the full cursus of courts, from the Assizes to the Exchequer and finally to the House of Lords in 1730, about the disputed ownership of an estate in Surrey and Hampshire (11).

The most powerful eighteenth-century Surrey families were not necessarily long-established in the county, a fact which Defoe noted at the time:

> As we see these families wear off, we at the same time see a succession of modern families who, rais'd to estates by the accidents nam'd abov [sic], purchase the old mannors and mansion houses of the extinguish'd race and rise up as new families of fortune and make new lines of gentry in their stead. These supply the roll of English gentry, and in a succession or two are receiv'd as effectually, and are as essentially gentlemen, as any of the antient houses were before them.
>
> This is especially to be observ'd in the severall countyes adjacent to London, where, in short, you have very few of the antient gentry left, as in the countyes of Essex, Kent, Surry, Middlesex, Hartford, etc... (12)

The Carews and the Onslows settled in Surrey in the sixteenth century but were wealthier than the longer established Lamberts, Thorneycrofts or Vincents. While no family could challenge the position of the Onslows who owned land in some thirteen parishes mostly on the west of the county, one might mention the Brodricks around Peperharrow and Witley, the Claytons around Bletchingley, Tandridge and Godstone, the Evelyns around Abinger and Wotton, the Howards around Ashtead, the Kings around the Dittons, the Newlands around Reigate and Gatton and the Scawens around Carshalton. Working from standard manorial histories of the county, it might be suggested that about fifty families ruled the one hundred and forty or so parishes of eighteenth-century Surrey. This is only a very rough estimate: it excludes

individuals who might have had much political power but who were not succeeded by direct descendants (such as John Lade, MP for Southwark, Chairman of the court Quarter Sessions and Warden of St. Saviour's vestry) and it includes dynasties of yeomen (such as the Bax and Marche families) whose influence was very limited. Of course political power was associated with the judicious support of the Hanoverian monarchy as well as the extent of land ownership. The replacement of the Westons and the Copleys ('Catholic agriculturalists') by the Onslows and their extensive network of Whig allies is well chronicled by the Victoria County History (13). Throughout this thesis, however, political power will be examined in the more general sense of ability to control and influence in a local context and will have little to do with machinations in the House of Commons.

To sum up: this thesis will examine the machinery of local government in eighteenth century Surrey, with particular emphasis on the impact of local administration on ordinary citizens on the one hand and the role expected of community leaders - vestrymen, Justices, Members of Parliament - on the other.

INTRODUCTION: CENTRAL CONTROL OF LOCAL ADMINISTRATION

The distinction between local and central government has evolved slowly. In the middle ages, the former was merely the extension of the latter. Thus the sheriff, then chief administrator at a local level, was the king's representative and personally answerable to the Exchequer. Though there was much discussion as to what were to be considered proper governmental concerns, governmental functions were relatively simple, especially in the form that they took in the localities. At county level, early mediaeval government was designed to raise money fromthe king and to administer justice on his behalf. Such an interpretation of the role of local administration left it little room for initiative, for all decisions were taken centrally: it is not surprising that between June 1333 and November 1334, the sheriff of Bedfordshire and Buckinghamshire should have received approximately 2,000 writs of varying nature from central government (1).

As the competence of local government widened and the deficiencies of the existing system, which allowed corruption and extortion, were remedied, a more sophisticated machinery developed locally. The implementation of the Poor Law or the provision of county bridges, to cite two examples of the type of responsibility which came to be seen as governmental duties, could hardly

be decided centrally. It was therefore only a matter of time before additional offices were created to complement and report on the officials who formed the existing structure. The sheriffs were joined by itinerant judges, resident magistrates and lord lieutenants to act in the complex and distinct organisation which local government had become by the Tudor period. In the devolution of power which such decentralisation involved, central governments's interest then revolved not so much around the fairness of the decisions taken locally as around the reliability of the local appointees. Reliability, for a long time, did not have strong political connotations so much as general criteria of social acceptability and financial substance. Property qualifications were specified for each office in an attempt to prevent corruption and irresponsibility, and the procedure for appointment - usually in the gift of the crown - was regularised.

The idea of central supervision of local administration is not new. This introduction investigates the ways open to central government to direct local administration in the eighteenth century and describes the role of the officials and the courts involved in this process - the sheriff, the lord lieutenant, the Assizes and the Quarter Sessions. The relative importance of each of these agencies has varied from century to century and these changes have reflected the interest of central government in local affairs and its

ability or otherwise to implement change. The nature of those changes which did occur is circumscribed by the political context of the time. While it is not the purpose of this thesis to describe political trends, three developments are of particular significance to the historian of eighteenth-century English local administration.

The first is the importance of the Tudor bequest to the theory and practice of local government. The sixteenth-century monarchs turned away from the powerful single administrators. Not only did they finally reduce the sheriff's role to an honorific position, but, when they created the lord lieutenancy, they did not anticipate a permanent role for it. As J.R. Tanner noted, 'the Tudor sovereigns might have established a bureaucracy of experts under the new office of Lord Lieutenant' (2) but chose another course of action. The Tudor official par excellence was the Justice of the Peace, who, for most major decisions, was expected to act corporately at the quarterly meeting of the Bench, the Quarter Sessions.

A second important factor was the breakdown of the supervision of local government during the interregnum. Lawrence Stone notes how first the Rump Parliament and then Cromwell experienced difficulty in 're-establishing the sovereignty of central government' at that time (3). At the Restoration, the county gentry's assertiveness was no longer

systematically checked by the web of controls which had been exercised by the Privy Council, the Star Chamber and the regional councils in the sixteenth and early seventeenth centuries (4). In the late seventeenth and early eighteenth century, control over local government was attempted through the political manipulation of the appointment of the magistracy. Recent work on these appointments and removals, however, shows that they had relatively little impact on the work of the Bench of the county affected by the alterations. The county of Wiltshire, for instance, for which a new Commission was issued in 1712 which included sixty-three new names and left out sixteen old ones, was relatively untroubled by the change, as Lionel Glassey shows:

> However, if it was intended to swamp the Wiltshire bench with new justices, the results were disappointing. Fifty-one out of the sixty-three included never acted as Wiltshire justices. If the name of those attending quarter sessions in the year of hypothetical 'Whig predominance' from April 1709 to January 1710 are compared with the names of those attending during the year of hypothetical 'Tory predominance' from April 1713 to January 1714, it appears that at least two-thirds of those who had attended in 1709-10 were still in commission in 1713-14 ... (5)

The third significant development, about which more will be said later, was the suspicion with which the itinerant judges - the judges of assize - were considered after their close involvement with the political repression of the 1630's and 1680's. This led to their withdrawal from the process of administration of the counties.

These trends contributed much to promoting the importance of the county squire in local government, a fact which many authorities, including Maitland and Radzinowicz, and more recently Mingay, Thompson and Stone have taken as the keystone of the eighteenth-century administrative and legal history. The story of the gradual rise of the Justice of the Peace in local administration is probably best told in the context of the evolution of the machinery of local government and its relation with central government to which we now turn.

I The Sheriff

(a) Mediaeval origins

The shires began to emerge as administrative units around the seventh century. Their origins were not homogeneous: in the South East, they had been kingdoms, in Wessex they were subdivisions of a larger kingdom and in the Midlands, they were artificial creations (6). The shire became the basic unit of military defence in the ninth century and acquired a judicial court in the course of the tenth (7). At first, the government of the shires was vested in the ealdorman, who later became responsible for several shires simultaneously. A representative was then appointed by the Crown to embody royal power at a local level - the shire reeve. This development has been traced to the ninth century (8). Royal officials at shire level already existed,

of course, in the form of the king's reeves, appointed to manage royal estates in each shire, and in that of port reeves, who attended to royal interests in the boroughs. The shire reeve might be seen as an extension of that idea. As the shire became a unit for taxation purposes as well as justice, its revenue was farmed by the king to the sheriffs - a responsibility which endured well into the nineteenth century (9).

The Norman conquest did not alter fundamentally the organisation of that tier of government, although by 1071, most sheriffs were Norman. The period immediately following the conquest saw the sheriff at the height of his power as royal official, tax collector, judge and military leader - indeed, as H. Jewell points out, he was 'the key man in local administration' (10). The county was then administered through two courts. The Tourn, 'unto which all the county were compellable to come ... so that they might not be ignorant of the laws whereby they were to be governed' (11), and the county court, which was cognizant of debt cases under 40 shillings, had various judicial powers and was the meeting through which Knights of the Shire were returned and the process of outlawry (the process invoked against Wilkes in Middlesex in the later eighteenth century) was initiated. Later mediaeval developments led to the devolution of many of the Tourn's duties to the manorial leets and many of the county court's responsibilities to

the Hundred courts - both of which will be discussed in Chapter Two below. At the conquest, the bishop who had presided in conjunction with the sheriff at the county court was removed, leaving the latter in sole charge. The county court gradually acquired more permanence as the Tourn withered away. In Surrey it had settled in Guildford by 1257 (12).

The income managed by the sheriff arose from royal estates, local pleas and from occasional levies called Sheriff's Aids. His military role was significant: at Hastings, the Anglo-Saxon county contingents had been led by the sheriffs in most cases. In a number of counties, the office carried with it the custody of royal castles in the shire. In Surrey in the thirteenth century Guildford Castle, in addition to being a prison (13), housed the domus vicecomitis or shire house, a hall and chamber for the use of the sheriff and his clerks (14).

From as early as the twelfth century, however, and by royal design, the sheriff's power was gradually eroded, first by the appointment of lesser men to the office and then by the introduction of institutional checks on their work. By the fourteenth century the system of itinerant judges who visited the counties upholding the king's justice was fully developed. The sheriff's perogative was further restricted when the county gentry was called upon to act as

jurors, commissioners of array, tax collectors and coroners (15). More significant still was the appearance of the local resident magistrates, the Justices of the Peace. Magna Carta and legislation of Edward IV stripped the sheriff of his right to hold pleas of the Crown. Indictments taken at the Tourn were to be transmitted to the Justices of the Peace. The sheriff's answerability to the Justices in administrative matters was fully enounced in the act of 1495 which specifically enabled the magistrates to convict and punish sheriffs guilty of extortion or corruption (16). Furthermore, his military pre-eminence was eroded by the creation of the Lieutenancies in the reign of Henry VIII. The sheriff's functions were thus one by one usurped by a number of new officials. This is not to say that the sheriff was completely redundant after the Tudor reorganisation of local government and it is appropriate to define his role in eighteenth century government at this stage.

(b) The sheriff in eighteenth century Surrey.

In the eighteenth century, the not inconsiderable residue of the sheriff's powers tended to be executive in nature. In the preface to his book on The Office of Sheriff, published in 1786, John Impey proposed the following as a description of the office's responsibilities:

> As a judicial officer, the sheriff has the administration of justice in the county court; as a ministerial officer he had the execution of all process, whether civil or criminal, original

> mesne, or final. Besides which, it is his duty to preserve the peace; ... (17)

Some indication of the relative importance of the sheriff's judicial, ministerial and policing functions needs to be given. There is little doubt that judicial aspect of his functions was minimal in the eighteenth century. As we have already noted, Magna Carta and later legislation transferred much of that part of his work to the Justices of the Peace. Of the two sheriff's courts, only the county court survived, and this only in connexion with specific functions: as a court for debts under 40 shillings, as a meeting of the freeholders of the county, which had particular significance in the election of the Knights of the Shire, and other small processes.

Although the county court records do not survive for Surrey in the eighteenth century, it is clear from the evidence of other counties that few debts were chased up before the sheriff's court. In Buckinghamshire for instance, debt cases entered in the county court records were few and far between and were constantly adjourned unresolved (18). The county court had to be held for procedural reasons, such as that the sheriff could not begin his year in office without reading his patent before the freeholders. It was, however, as the venue for the county hustings that the county court retained its importance. George Onslow's excited reports to the Duke of Newcastle on his nomination

for Surrey in 1761 provide evidence of well attended meetings:

> I have the happiness to acquaint Your Grace that at the most most numerous meeting today that ever was known at Epsom, I had the honor of being unanimously agreed to; ... (19)

Meetings of the court were advertised in the London newspapers, another indication of the interest attached to the political functions of the county court (20). Responsibility for the issuing of such announcements lay with the sheriff who acted as returning officer in county elections. The Surrey franchise included between 3,500 and 4,000 voters in the period under review (21). As might be expected, the Onslow family who first sat for Surrey in 1627, dominated the proceedings. The Onslows provided one of the two Knights of the shire in seven of the eight general elections held between 1715 and 1761. The Whig interest was thus prominent in Surrey, particularly as most of the other candidates for that period were drawn from the ranks of the Whigs and opposition Whigs. The Surrey sheriffs' political opinion reflected the fundamental consensus of the county: of those for whom political allegiance is known more than half were Whigs.

The ministerial functions of the sheriff were very extensive. Indeed it may be argued that the importance of his role in the Quarter Sessions and Assize processes alone

assisted in the survival of the office. Thus the writ which initiated the meeting of Quarter Sessions and required the attendance of the Justices, High Constable, jurors and all parties involved in cases due to come up at that session, was issued under the name and seal of the sheriff. He was also responsible for the arrest and imprisonment of suspected felons, for the collecting of fines and the administration of the sentences imposed by the court. The sheriff was nominally governor in chief of the county gaol, but in this as in so many other fields, his supervisory duties were taken over by the bench of magistrates.

At Assize meetings, his role was fundamentally the same. The Assize opening, however, involved an elaborate and grandiose display of pageantry. In the eighteenth century, the sheriff was expected to receive the judges of Assize with much pomp. He had to provide for a liveried retinue of javelin men, trumpeters, bellringers, the fees of servants, clerks and ministers of the church, and, in the case of a Maiden Assize, the sum of five pounds. In addition, the bill of fare for one Assize meeting, in the course of which the sheriff would have to entertain the judges, might well run to sixty or seventy pounds (22).

This aspect of the functions of the office proved expensive. In certain counties, as in Buckinghamshire, prospective candidates organised for the transfer of the

liveries from year to year and entered into associations to spread the cost of the paraphernalia which they were required to provide in their year of office (23). Yet it could be suggested that it was this aspect of the responsibility of the office which attracted many candidates. For many men, this ritual expenditure symbolised the acknowledgement of the county establishment. For, if from the reign of Henry VI, it was the judges and great officers who proposed the three names from each county from which the selection was made by the Crown, names rarely went forward which had not been approved by the gentlemen of the county.

Although the money expended on banquets and pageantry was provided for by the individuals appointed to the office, much of the financial burden of the sheriff's administrative work was provided for by the Exchequer. The Treasury papers abound with references to payments for rewards on the apprehension of felons, as for instance, in April 1731, when Samuel Kent, sheriff of Surrey, was granted £160 to reimburse him for rewards he had already paid to William Ferryn and others for apprehending and convicting Ottway of robbery (24). Broadly speaking, the ordinary revenue of the shire came from the farm - the revenue from the ancient demesne lands and fees and fines arising from the various local courts. Recurring expenditure, such as the costs connected with the administration of justice or the maintainance of

castles, was set against the farm. Extraordinary revenue arose from feudal incidents and amercements in the Royal Courts (25). Overall, in the eighteenth century, the sheriff was expected to make a loss in the year of his incumbency.

There is little doubt that the office had become honorary by the eighteenth century. The evidence shows that the sheriffs neither expected nor were exposed to have to undertake significant amounts of practical work in the course of their year in office. This was so even in the seventeenth century, as the difficulties which arose in connexion with the levying of the Hearth Tax show. In this case, the early legislation provided for the money to be levied by the sheriffs. It failed, however, to specify whether, if the collection spanned the incumbency of two sheriffs, responsibility for the tax should also be transferred. In 1664, Nicholas Stoughton, the incoming Surrey sheriff did not feel it was his duty to continue where his predecessor had left off. Only the persistence of the Clerk of the Peace who was also the undersheriff (and thus entrusted with both the assessing and the collecting of the tax) who wrote to the Council Board ensured that the money was raised in the county (26). Stoughton's lack of responsiveness seems to have been a common phenomenon, as in February 1664/5, the Board wrote to all sheriffs to encourage a more systematic approach to the collection. In the second revising Act, a machinery was created to collect

the tax which by-passed the sheriffs altogether (27).

The low governmental expectations of the sheriffs' commitment to county business is further illustrated by the quite frequent cases of escapes from gaols. When Thomas Bluck, imprisoned for smuggling large quantities of wool and '311 ankers of brandy' escaped from the Surrey gaol, proceedings were started against Ralph Thrale, then sheriff for the county. A Treasury warrant to stay the process. taken out in 1734, agreed to the stopping of the proceedings provided that Thrale paid the costs incurred as was usual in the cases of escapes (28). That this was not an isolated incident is implied in the text of the warrant and the frequency of such entries in the calendar of Treasury papers.

There is no doubt that by the eighteenth century the office was prized for its social implications. Newspapers such as the London Evening Post and the Gentleman's Magazine published full lists of appointments annually (29). In E.N. Williams' phrase, 'the ancient office of sheriff had faded to a ceremonial shadow' (30). Most of his functions were actually undertaken by the undersheriff, who, though in theory appointed annually by the incoming sheriff, in practice was regularly re-appointed from year to year. For the greater part of the reign of George II, the Surrey undersheriff was John Chatfield (31). It was common for

sheriffs to employ solicitors as attorneys for certain aspects of their work, such as the obtaining of the writ of quietus from the Exchequer at the end of the term of office. Certain sheriffs were so far removed from their duties that a deputy sheriff was asked to act on ceremonial occasions.

It remains to comment on the sort of person who agreed to take on the expense of an office which carried little patronage and no influence. It has been suggested that before 1700 sheriffs usually were local landowners who had connexions with the court and were chosen from the same class as Members of Parliament and that after that date the office was held by representatives of 'a wider circle rather than by a comparatively narrow circle of county families' (32). This analysis holds good for Surrey, where, while seventeenth-century sheriffs were members of the leading county families, this is no longer true of the sheriffs of the reign of George II. The seventeenth-century Surrey sheriffs would surely have been surprised to find a bookseller - famous and reputable though Jacob Tonson was - among their successors. It is particularly striking to find that of the 34 sheriffs appointed in Surrey between 1727 and 1760 28 were drawn from the Eastern part of the county - that is to say from the parishes in the London area. The emphasis was clearly towards appointing wealthy members of the commercial classes of South London. It is important to stress that these men were neither uninfluential nor

corrupt. Most sheriffs had already been commissioned as Justices of the Peace before their appointment as sheriff, and most of them held substantial property in the county. Many were active in the life of the county. Thomas Beavois, a regular attender at Quarter Sessions, could be relied on to bring indictments against keepers of 'houses of bawdry' at Assizes (33). Ralph Thrale and Joseph Mawbey, sheriffs in 1733 and 1757 respectively, amassed considerable fortunes and both sat in parliament. It remains true, however, that none of the well-established county families are represented among the sheriffs of the reign of George II. In those 34 years, the Onslows, the Claytons, the Vincents, the Evelyns, the More Molyneaux, the Oglethorpes did not provide a single sheriff for the county between them, although they did provide at least eighteen Justices of the Peace: confirmation, if any were needed, of the practical insignificance of the office of sheriff in our period, and an indication of the relative importance, in contemporary opinion, of the magistracy.

II The Assizes

(a) Origins of the court of Assizes

The ealdormen and later the sheriffs were the first judicial agents of the Crown at a local level. By the beginning of the twelfth century, the volume of judicial business had increased so much that the existing structure

could no longer cope. Local justiciars were then appointed by the crown, but although they played an important role for nearly half a century, the office was superseded by the implementation of the important reorganisation of judicial administration which took place in the late twelfth century. This reorganisation firmly placed the central courts and the regular itinerant commissions at the centre of the judicial system (34).

The use of itinerant officers was established early. It is a mark of the stability of the system that the Domesday commissioners travelled a circuit which bore close resemblance to that followed by the twentieth-century judges of Assize (35). Evidence for the appointment of travelling judicial commissions survives for the second half of the eleventh century when Geoffrey of Coutances was sent to attend on behalf of the king the trial at Pinnenden Heath in 1075 (36). In Henry I's reign, itinerant commissions are shown to have had extensive briefs: they were empowered to determine a wide variety of causes, not just important single issues. At this stage, however, the judges appeared at specially summoned sessions of the county court. Out of these unspecific commissions, grew narrower commissions, the general eyres and the commissions of trailbaston and oyer and terminer.

The business of the eyre comprised both crown and civil

pleas, the conduct of possessory assizes and the supervision of local administration. It therefore covered much of the business which came within the purview of the later Assize courts, but J.S. Cockburn has warned against seeing the eyre as the forerunner of the Assizes (37). It is rather in those commissions which were appointed in parallel to the eyre that such antecedents are to be sought. For the eyre was intermittent and unpredictable. Cases which had not been settled could be adjourned to the central courts. The eyres were supplanted in the first half of the fourteenth century (38) and were succeeded by commissions of oyer and terminer, which from the late thirteenth century heard crown pleas, and by commissions of trailbaston initiated in 1304, which were empowered to inquire into 'disturbers of the peace, maintainers of malefactors and ill-treater of juries' (39).

Initially, the Assizes came below the eyres and the commissions of oyer and terminer in the hierarchy of the courts. In Henry II's reign, they dealt exclusively with civil business, particularly the dispossession of land and inheritance or disputed advowsons. From 1272, the arrangements for the meeting of the court and its staffing were formalised. In 1273, legally trained judges were first appointed to preside at the Assizes held in counties grouped in circuits. In 1285, the Assizes acquired a general jurisdiction over civil cases begun in the central courts of King's Bench and Common Pleas. The civil work of the Assizes

came to be known as nisi prius from the wording of the writ which allowed the court to be cognizant of such cases. In the fourteenth century, the competence of the court was widened to cover the misdeeds of sheriffs, escheators, bailiffs and jurors and, more important still, to include criminal proceedings (40). When, at the beginning of the fifteenth century, the court of King's Bench which up to then had duplicated some of the activity of the Assizes, especially in the supervision of the local resident magistracy, ceased its practice of visiting the counties, the Assizes had at last become the most important itinerant court. The supervision of local justices passed to it and the process under which local courts, particularly Quarter Sessions, came under the control of the Assizes was completed in the Tudor period. By the beginning of Elizabeth's reign, then, the judges of Assize 'were well on the way to unchallenged rule in almost all of the English shires' (41).

The success of the Assize court in asserting itself over other itinerant jurisdictions has been ascribed to a number of factors, including the regularity of its sessions. Although the statute of 1285 proposed three meetings annually, the Assizes were held twice a year in the circuits nearer London and less often further North for the greater part of the history of the court. The county of Surrey was included in the Home circuit from the beginning to the

abolition of the court in 1971. The Surrey Assizes, held in Summer and Winter, took place in several of the bigger market towns of the county, Croydon, Kingston and Guildford being the commonest (42).

The history of the Assize court at its height - in the sixteenth and seventeenth centuries - has been definitively told by J.S. Cockburn and no more is required here than to to summarise the trends which he has identified in the development of the jurisdiction of this court. While the criminal work of the Assizes has attracted the notice of several historians recently, it is often forgotten that for much of the greater part of the sixteenth and seventeenth centuries, it played a significant role in the administration of the counties. Common administrative processes such as the levying of rates, the investigation of irregularities at municipal elections, appeals against removal orders or economic regulation such as the licensing of the export of corn in times of dearth were referred to the Judges of Assize. Such involvement with county administration, however, is typical only of the period up to the Civil War. For Cockburn, the Interregnum marked the beginning of the end of the supervisory function of the Assizes in county organisation. Thereafter, their 'credit as an agency of provincial control had been seriously damaged by their identification with perogative rule, and, particularly, by their indiscriminate advocacy of the King's

right to levy ship money' (43). The growing self-confidence of the local magistrates in administrative matters - which had been particularly bolstered during the Civil War - and the use of the Lord Lieutenant in administrative matters in the late seventeenth century, led to the withdrawal of the Assize judges from the supervision of county business. Indeed, Cockburn suggests that, by the end of the seventeenth century, 'this aspect of the assize judges' jurisdiction was for all practical purposes defunct' (44). This assessment exaggerates the decline of the role of the Assizes in the government of the counties in the eighteenth century and some discussion of the relationship between the county and the Assize at that period is warranted.

(b) The administrative work of the assizes in the eighteenth century

While it is true that the Assize judges had lost their initiatory role in the administration of local affairs by the eighteenth century, the significance of the Assize meetings for the settling of local issues should not be overlooked.

The gathering of large groups of Justices of the Peace, who were required to attend the Assizes, provided an opportunity not just for informal contact but for official discussions. Thus, when the building of Westminster Bridge was mooted, the London Evening Post carried the following

report:

> We hear that on Saturday last Sir Joseph Ayloffe, Bart., Thomas Green, William Cowper, Nathaniel Blackerby, Samuel Savil, John Duncombe, John Langley, Hatch Moody, Richard Farwell, William Morrice Esqs., and Capt. Morrice went to Kingston upon Thames, the Assizes for the County of Surrey being then holding [sic] there; at which were present a great number of persons and quality and distinction of the said county; to whom the said gentlemen being deputed on the part of the Inhabitants of the City and Liberty of Westminster who are engag'd in promoting a design to procure in proper season an Act of Parliament for erecting a bridge over the Thames between Westminster and Lambeth, communicated the said design, and acquainted them that they had made a progress therein. They were receiv'd with great civility by the gentlemen of Surrey and Sir John Lade, Bart., the Foreman of the Grand Jury there, return'd them (by direction) the thanks of the company for this instance of respect shewn to the County of Surrey. (45)

In a sense, the presence of the judges of Assize was irrelevant to the meeting of the leaders of the two counties, which might have taken place at a meeting of the court of Quarter Sessions in either county for instance. Yet it is clear that the sense of occasion presented by the meeting of the court of Assize was seen as a more fitting context for the discussion of such an important issue.

Similarly, while the judges of Assize no longer directed local administration with the confidence that they displayed in the seventeenth century, the sanction of the court was still sought for a number of administrative purposes. When, in 1739, an Act was passed to establish an infirmary in Bath, the legislation specified that the bye-

laws of the proposed institution should be approved by the Bishop of Bath and the Judges of Assize for the county of Somerset (46).

There is no doubt that many routine administrative matters came before the judges of Assize. When the parishes of Beddington and Mitcham took their dispute over their boundaries to law, that 'great cause' in the words of a contemporary newspaper (47) was heard at Assizes, when a special jury was impanelled. The procedure of indictment and presentment of the Assize court provided parish and county authorities with a method of obtaining redress in various administrative matters such as the closure of disorderly alehouses and the repair of the highways. Presentments which could be made to the court either by High Constables or the Grand Jury sworn at each Assize, were, throughout our period, regularly entered in court records. Thus in 1749, Lambeth parish presented Thomas White for keeping a disorderly house and entertaining 'evill disposed people' and St Mary Newington presented William Willis at 'the sign of the Aloe Tree' for keeping a common disorderly house (48). The Grand Jury, about which more will be said below, regularly promoted the upkeep of roads and bridges.

It may be suggested, therefore, that although the Assizes no longer dominated the administrative process at county level, the court still played a significant role in

this process. In the context of this thesis, however, it is the evidence afforded by the assize records for a study of the active county magistrates, the main administrators of our period, that justifies a closer analysis of certain administrative processes at Assizes.

(c) The active Justice of the Peace and the Assize

An important record, frequently mentioned but rarely used by historians, is the nomina ministrorum or more specifically, in the Home Circuit files, the nomina justiciar' pacis, a list of all the individuals empowered to act as Justices of the Peace for the county. This document, which often survives as the outer wrapper of the Assize rolls for each session, is of particular use: the regularity of its compilation - twice a year - and the relatively poor survival of commissions of the peace (the documents issued to the sheriff listing the magistrates appointed to act in his county) make the nomina the most reliable source for an assessment of the number of justices commissioned in each county.

Contemporary debates about the size of the county commissions and their growth will be discussed in chapter eight. At this stage, we are more concerned with providing global figures for the period under investigation. An analysis of the five yearly totals show the following fluctuations for the county of Surrey:

Surrey JPs enumerated in Assize nomina, 1730-1755

Summer 1730	347
Summer 1735	399
Summer 1740	363
Summer 1745	455
Summer 1750	362
Summer 1755	446

The peaks reflect the issuing of new commissions: a new commission was issued in March 1735, for instance, which would account for the increase by the summer of 1735 (49). These irregularities, however, do not mask the overall growth in the size of the commission, a trend which was noted from the sixteenth century onwards.

The nomina, however, provide a relatively inaccurate directory to the county rulers or rather to the group of gentlemen who were prominent in the administration of the county, and this for two reasons. The first is that the lists include the names of many individuals who, though empowered to act as magistrates, never actually did. Secondly, the nomina included the names of many magistrates, who, though active in national politics, had few, if any, associations with the county for which they had been commissioned. Thus the Prince of Wales, the Archbishop of Canterbury and Sir Robert Walpole appear in the Surrey commission for 1735 (50). The practice of including notable figures in the commission was a long standing one. William Cecil was a Surrey Justice in the reign of Elizabeth (51) and Richard Bancroft, Archbishop of Canterbury in 1605 (52).

The nomina of 1735 shows that of the first ninety-one names on the list, only three, Thomas Lord Onslow, Allan viscount Midleton and Speaker Onslow were active Justices in Surrey. The nomina of 1745 shows - with the exception of members of the same two families - that the first ninety-five individuals mentioned had little commitment to Surrey county business.

The nomina were in fact intended as attendance lists, and the presence of the Justices actually present at the Assizes was noted on the roll. From the annotation entered for the Surrey assizes, it is clear that the number of gentlemen who took this duty seriously was quite restricted. Of the 399 potential attenders in the summer of 1735, only 32 were present, while only 38 out of 363 attended the 1740 summer Assize (and two of these were the Judges of Assize themselves, who, from 1739, were allowed by law to preside in the counties where they lived). Of greater interest, perhaps, is the fact that of the 32 attenders of 1735, only 8 were not also active Justices in the county (53). Similarly, in 1740, three quarters of the magistrates noted as present were also people known to have taken an active part in the administration of the county at Quarter Sessions. For most magistrates, therefore, presence at the Assize was merely one aspect of their duty and this reinforces the suggestion that Assize meetings were thought to be of value to county administration, even if the court

no longer played a very ostensible role in that context.

The evidence provided by Grand Jury lists, also entered on the Assize rolls, is of a similar nature. The Assize Grand Jury, which played an essential role in the criminal proceedings of that court, was also considered to be the main representative body of county opinion. It was composed of a group of substantial landowners in the county who were expected to present malpractices injurious to the inhabitants of the county to the court. These presentments could include, as we have seen, damaged roads and other hazards. What becomes apparent from the most cursory inspection of the eighteenth century Surrey Grand Jury lists, is that, again, there was a marked duplication of personnel. An analysis of the grand jurors at the summer Assizes at five yearly intervals between 1730 and 1755 shows that approximately three quarters of them were also active Justices of the Peace, the remaining quarter being, for the most part, individuals not named in the commission of the peace. Thus a justice who attended the Assizes was very likely to be empanelled as a grand juror, though the practice in Surrey allowed for a few others, perhaps not wealthy enough to be Justices of the Peace, to represent the county also. The control of the local magistracy over the Grand Jury was perhaps further reinforced by the local custom of appointing those JPs who usually acted as chairmen of Quarter Sessions as foremen of the Grand Jury at

Assizes. Thus Sir William Richardson, foreman at the Lent Assizes in 1748/9 (54), attended sixty Quarter Sessions between 1736 and 1760 and chaired 24 of these meetings.

While there is little doubt, therefore, that the Assize judges were no longer associated with the supervision of county administration to the degree that they were in the first half of the seventeenth century, the Assizes still retained some significance in county organisation. The changed emphasis is perhaps best reflected in the procedure for the nomination of Justices of the Peace. Whereas in the seventeenth century the Judges of Assize were used as the main channel of communication between the localities and central government for that purpose, in the eighteenth century, nominations could be put forward in a number of ways, of which the judges were just one. In the nineteenth century, nominations were normally proposed through the Lord Lieutenant of the county, but in the period under review here no single procedure predominated.

Thus, in 1743, Henry Hall's nomination was recommended by the Mayor and Aldermen of the City of Westminster in a formal petition (55), while in 1756 Henry Fox recommended four people in a short letter to the Duke of Newcastle:

> I beg leave to recommend to your grace to be put in the next commission of the peace for the City and Libertys of Westminster, Thomas Sherwin Deputy Secretary at War, John Calcraft, James Meyrick &

> Thomas Paulin Esqrs. And I beg leave likewise to recommend to your Grace the said Thomas Paulin Esq. to be in the commission of the peace for the countys of Middlesex & Surrey, which I am informed may be of so much use as that is may be expedient to add him by particular seal if no general commissions are soon to pass for the said countys ... (56)

Clearly, recommendations did not even need to be endorsed by the magistrates from the county in which the candidate was to act. In the 1740's, Speaker Onslow, who normally insisted on following any procedure most punctilliously, felt able to send this short note to Hardwick: 'Joshua Ironmonger Esq. to be a Justice of the Peace for Hampshire' (57). In 1752, the Archbishop of Canterbury wrote to Hardwick of Mr. Parry:

> The bearer is my receiver general, steward of the courts in Surry & has the care of all my estates. he is desirous to be put into the new commission of peace for Surry, & if yr Lp [pleases] into any other publick commission for that county. He is an honest man and loves business ... (58)

There is little doubt that in the eighteenth century, local administration really depended on a relatively small group of public-spirited county leaders whose names, whether as active JPs, as Assize Grand Jurors, as turnpike trustees, as governors of charitable institutions or as MPs continually recur in administrative archives. It is also obvious, from the foregoing contemporary comments, that the starting point for most careers in public service began, in the eighteenth century, with an appointment to the

commission. Part two of this thesis will describe more fully the work of Quarter Sessions, but an introduction to JPs and their role is appropriate here.

III The Justice of the Peace (59)

(a) The mediaeval Justice and the Royal Commissions

By the beginning of the eighteenth century, the Justices of the Peace and their courts had replaced many mediaeval institutions. Originally, however, it had been intended that the Justice should fill the lacunae of the system rather than take it over. The reorganisation which placed him at the centre of local government came about haphazardly rather than as a consequence of any planning on the part of central government, at least until the Tudor period.

It may be suggested (and this simplifies a delicate controversy), that the creation in 1264 at the latest, of the Custos Pacis, ancestor of the Justice of the Peace, was an attempt at sorting out the state of anarchy that prevailed in England. Then, duties of the Custos Pacis were essentially military. By 1316, he had acquired the rights of arrest and enquiry. In 1327, he was empowered to investigate crimes, a power which was revoked in 1330, but renewed in 1332. The Custodes Pacis, and later the Justices of the Peace were nominated by royal commisssion, which prescribed their duties and spheres of authority within each county.

The text of the Commission, revised in 1590, when it lost a number of archaisms, remained unchanged until 1875. Up to then, generations of Justices had been empowered to investigate and punish not only such miscellaneous crimes as 'forestalling, regrating and engrossing' but also 'enchantments, sorceries and arts magic' (60).

The number of Custodes Pacis and later of Justices, initially restricted to three or four per county, grew rapidly: there were thirty to forty per county in the sixteenth century, and two, three or four hundred by the eighteenth century, a development which alarmed many people. The jurist Nelson, for instance condemned this proliferation and suggested that there should be sixteen justices per county, eight unpaid and nominated from the best county families, and the remainder employed full-time and remunerated (61).

A statute of 1344 introduced the idea of a quorum. from that date, any group of magistrates judging serious crimes (felonies) had to include at least two members trained in the law. Up to the sixteenth century, the quorum of each county included the most experienced justices in the Commission, but as the magistrates grew to rely more and more on paid professional legal advisors (employed either by the bench or privately by individual Justices), the need for a quorum lessened, and, by our period, most justices were of

the quorum. Indeed, Barnes and Hassell Smith suggest that 'by the reign of James I the greatest interest attaches to discovering why a very few Justices on each commission were not of the quorum' (62). J.H. Baker notes that by our period it often was the case that only the name of the most recently appointed Justice was symbolically left out of the list of quorum justices (63), although this may have been more true of the nineteenth century than of the eighteenth: Lionel Glassey shows how the situation was by no means settled even in 1720 (64).

The first important statutes which were to transform the initially complementary role of the justice into a much more central one date from the fifteenth century. Justices then became responsible for the supervision of local administrators and for the implementation of some civil legislation. In the sixteenth century, they acquired their many administrative duties (65). It has been said, with some justification, that listing the functions of justices of the peace as they emerged out of the sixteenth century, amounts to reciting the bulk of Tudor legislation (66). Certainly, by the end of the sixteenth century, the outline of the role of the seventeenth, eighteenth and nineteenth century justice had already been defined.

(b) The court of Quarter Sessions

The idea that the justices of each county should meet periodically is also a mediaeval one, although it is worth noting that it came about a century after the creation of the Custodes Pacis. A statute of 1388 stipulated that the bench of each county should meet at least four times a year and that sessions could last for as long as three days if this proved necessary. Twenty years later, the dates of the sessions were fixed by statute; they were to be held in the week which followed Michaelmas (29 September), Epiphany (6 January), the Sunday after Easter (Clausum Pasche) and the Translation of St Thomas (7 July). These Quarter Sessions soon proved insufficient and adjournments were introduced, especially in populous counties such as Middlesex, where as many as sixteen sessions and adjournments were held every year, by the end of the seventeenth century. In Surrey, adjournments became regular only towards the end of our period.

The Surrey sessions were peripatetic, but were held practically always in the same places: Reigate at Easter, Guildford in the summer, Kingston or Croydon in the autumn and Southwark in winter.

One of the predictable consequences of the multiplication of justices and of their duties, was the

dividing, specialising and delegating of duties to groups of magistrates. According to the complexity or seriousness of a problem or of a crime it was dealt with by a justice acting on his own, by two justices acting together, by 'special sessions', by petty sessions or by quarter sessions. Often the level at which a matter was dealt with was determined by legislation.

(c) Justices acting on their own or in pairs

The practice of empowering justices to act on their own (if one excludes the early mediaeval beginnings) developed especially after 1688, although it already existed in the sixteenth century.

The single justice had many supervisory duties. He would direct constables and other local officers such as surveyors of the highways in their work. He would supervise the levying of parochial taxes and could reprimand officials who failed in their duties. He was meant to keep an eye open for damaged roads, broken bridges and polluted rivers. He could enforce certain statutes such as that which enabled him to fine anyone caught uttering blasphemy. (There is plenty of evidence to show that this was not an unenforced law, since certificates of conviction had to be passed on to the sessions). He could punish the idle and authorise shipwrecked sailors to beg in his area.

By the eighteenth century, one of the most important duties of a justice acting on his own, would be to prepare a criminal case that would be tried at Quarter Sessions or at the Assizes. For this, he could take witnesses', plaintiffs' and suspects' depositions, warn the Clerk of the Peace of the case and obtain recognisances of the plaintiff and the defendant to ensure their presence on the day of the trial. Justices also had power of arrest and could grant bail.

There does not survive for Surrey and for our period any justice's notebook or professional diary, which conscientious justices were advised to keep, to record details of business which they had engaged in of their own. For the later period of 1767-1776, however, the notebook of Richard Wyatt, justice in Northern Surrey, illustrates well the work of the single justice (67). Significantly, Wyatt dealt mostly with poor law matters and with the preparation of criminal cases for Quarter Sessions and, occasionally, for the assizes.

Certain administrative formalities required, by law, the approval or signatures of two justices. This was the case, notably, with the nomination of parish officers, the annual audits of overseers and surveyors' accounts, the issuing of parochial rating orders and, perhaps most importantly, the signing of removal orders, which authorised the removal of resourceless people from the parish in which

they were found to the parish where it was thought they belonged.

Justices acting on their own or in pairs had no territorial constraints and could act anywhere within the county.

(d) Special Sessions

Special Sessions, or the meeting of justices in their various districts (usually hundreds), were encouraged by government proclamations from the sixteenth century onwards. They really came into their own, however, with the formal creation in 1691 and 1729 respectively, of the 'highway' and 'brewster' sessions (68). At the highway sessions, the surveyors submitted reports on the state of the roads and bridges in their district and, once a year, their accounts. Brewster sessions held anually in September, met specifically to investigate, renew or withhold publican's licences.

Minutes of the Kingston and Elmbridge hundreds brewster and highway sessions survive for our period (69). At these brewster sessions, held in September as required by law, renewals were not as easy to obtain as the Webbs have suggested. The justices were clearly ready to listen to the complaints of the neighbours or other interested parties

before granting the licence. Conversely, they were also aware of the hardship that could be caused if permission to trade were not renewed. In September 1744, for instance, the Duke of Newcastle complained of the activities of the alehousekeepers of his parish of Esher. In this case the ministerial rank of the plaintiff did not sway the justices in his favour, for, after prolonged consideration of the case, the complaint was rejected and the licences signed (70).

The highway sessions of the Kingston and Elmbridge hundreds were not held as regularly as the statute proposed. In practice only the January meeting, in the course of which nominations for the ensuing year were made, and the early winter meeting, when the surveyors presented their accounts, were regular. The problems discussed at highway sessions were fairly predictable: local inhabitants often insulted and assaulted the surveyors; constables failed to prepare lists of people of appropriate standing to become surveyors; and, most importantly, people refused to provide the statutory free labour for the repair of the roads. In the first two cases, the highway sessions would issue its own reprimand, but in the latter, the inhabitants were threatened with prosecution at Quarter Sessions. This probably explains the irregularity of the highway sessions. Except for very specific duties, such as the auditing of the surveyors' accounts which required a meeting of the highway

sessions, much ordinary business could be transacted in other courts.

(e) Petty Sessions

Towards the end of the seventeenth century, there appeared in Surrey and in many other counties a meeting of justices called the Petty Sessions (71). These sessions took over many of the duties carried out by pairs of justices, and fulfilled them in a more formal way, in the presence of a clerk. In Surrey, by analogy with the special sessions, the petty sessions were based on the hundreds or pairs of hundreds as territorial units.

The minutes of the petty sessions of the Hundreds of Kingston and Elmbridge survive for the entirety of the reign of George II and chronicle in detail the business of the court (72). At the beginning of our period the sessions were held roughly once a month, although later, from 1740, they became less frequent. The sessions recorded were either for Kingston or for Elmbridge or for the two hundreds together. Increasingly, though, and particularly in the second half of the century, the meetings were held as joint sessions. The number of justices present varied between four and six, but fewer attended the Walton on Thames meetings (held there for Elmbridge hundred). The business transacted was mainly administrative. The justices were concerned with the

implementation of the poor law, ranging from the examination of overseers and of the poor people themselves to the signing of various documents, including removal orders, and also with the enforcement of various laws such as the provision of statute labour and the punishment of people not gainfully employed. The nominations of parish officials and of local collectors were also confirmed at these meetings (73).

Very similar duties were performed by the Kingston Borough bailiffs, who were Justices ex officio, and this confirms the representativeness of the session minutes described above (74).

While there is little doubt that the Justices of the Peace, whether at Quarter Sessions or at Petty Sessions, provided the backbone of county organization in the eighteenth century, a theme which will be more fully developed later in this thesis, the theoretical structure of local government allowed for a figurehead, a single leader: the Lord Lieutenant, whose function was both to control and to represent these magistrates.

IV The role of the Lord Lieutenant

By the early eighteenth century the Lord Lieutenant was thought to be one of the most significant single individuals

in the county hierarchy, though how far this was true in practice will be discussed below. At any rate, to John Aubrey, writing towards the end of the seventeenth century, the top layer of the structure of local government was clear:

> The several towns are, under the King, governed by their magistrates Lords of the Manor, &c, but the whole is under the direction of a Lord Lieutenant, Custos Rotulorum, and a High Sheriff, the last of which is named yearly, (out of three gentlemen presented by the Judges) (75).

This, however, had not always been the case, even in theory, and it may indeed be suggested that the role of the Lord Lieutenant is one of the prime examples of the rapidity of structural change in the organisation of local government.

(a) The lieutenancy up to the Restoration

Although commissions of lieutenancy were issued with increasing regularity from the middle of the sixteenth century (76) - a commission was issued for Surrey in 1547, for instance - it is really only in the second half of Elizabeth's reign that they were established on a more permanent basis. Even then, however, the Tudor conception of the office was that it should be a transient expedient created to cope with specific military crises (77). The continued threats of invasion of which the Armada crisis of 1588 is the best remembered, helped transform what had been

proposed as a short-term appointment into an enduring state of affairs. J.C. Sainty, who tentatively offers 1585 as a first watershed, suggests that it was with the opening of the reign of James I that the office was transformed into a permanent institution. His analysis of the renewed interest of the Crown in the appointment of lieutenants in the early seventeenth century provides much evidence for the suggestions that there is 'sufficient justification for treating the first five years of James I's reign as of decisive importance in the establishment of the lieutenancy as a permanent institution' (78). James I's willingness to revive the office was matched by the wish of county families to take up its duties and its perogative. From the early Tudor days, it had been the perquisite of hereditary peers, a tradition which continued well into the nineteenth century. In Surrey, one of fourteen counties particularly noted for the hereditary transfer of the function, the pre-Restoration lieutenancy was strongly associated with the Howard family (79). Before 1660, however, the practice according to which each lieutenant was linked to one particular county did not prevail. One person could be Lord Lieutenant in several counties at the same time and several persons could act jointly within one county. For the period from 1636 to 1642, for instance, Charles Howard 2nd earl of Nottingham, Thomas Howard 21st earl of Arundel and Henry Howard Lord Maltravers were joint lieutenants for Surrey. For a short period between 1636 and 1638, a fourth

lieutenant, Edward Cecil, 1st viscount Wimbledon, was added to the Surrey commission. By the same token and in the same period, Henry Howard was joint lieutenant for Sussex with Algernon Percy 4th earl of Northumberland and Edward Sackville 4th earl of Dorset and was also lieutenant in Cumberland, Norfolk and Westmoreland contemporaneously. Thus the evidence for a very influential lieutenancy in the first half of the seventeenth century is not overwhelming, particularly since Surrey was by no means the only county in which such a complicated situation arose. For as long as counties had several lieutenants and individuals were appointed in several counties simultaneously, the authority of the office could not be clear-cut.

Such pluralism led, almost inevitably, to the appointment of deputies, from as early as 1569 in one case. In the first half of the seventeenth century, their appointment, originally in the hands of the Privy Council in the Tudor period, was gradually transferred to the lieutenants themselves. If the lieutenancy conferred upon its holders the status of leader of the county, the deputyship enhanced the personal status of its holders in the county hierarchy too. It is not surprising to find Charles Howard expressing 'confidence in the wisdome (...) of my frende Thomas Vyncent of Stoke' and appointing him deputy in 1601 (80). The Vincents were a well established Surrey family at the time, on whose support a lord

lieutenant would depend. Just as there were no formal qualifications for the office of lord lieutenant at that period, so were there none for the deputies. It is only with the reconstitution of the militia in the latter half of the eighteenth century that formal income qualifications were specified for deputies.

The context of the evolution of the office of Lieutenant was military. Initially, military experience was sought quite specifically in lords lieutenant. Lord Howard was Lord High Admiral in the Armada crisis, for instance (81). Even as the office acquired administrative duties later it did not relinquish its military function. In her account of the development of the office in the sixteenth century, Gladys Scott Thompson insists that 'the story of its origin and growth might be considered to belong to military history' (82), and the case she makes for the importance of the administrative functions of the lieutenancy at that period is weak. Since the office was still deemed to be temporary then, no long-term administrative work could reasonably be expected of lieutenants. In practice, such administrative duties as were undertaken by them were closely connected with their military responsibilities and entailed such work as the levying of the tenth and fifteenth to meet exceptional military expenditure (83). In fact, it remains true that in the sixteenth century, the Privy Council was more likely to

write to the Surrey Justices of the Peace and the Sheriff than to the Lord Lieutenant when it attempted to implement administrative duties, even those connected to military purposes (84).

Even after the office had become a permanent one, the early seventeenth century lieutenancy commissions do not explicitly mention administrative functions. Charles Howard's commission, renewed in 1608, only specifically empowered him to call musters, repress rebellions (and kill rebels), impose martial law and appoint deputies (85). Some doubt must be entertained as to the importance of the lord lieutenants in the civil administration of the county in the early days of the office. Of much greater significance than any prescribed administrative duty is the lieutenant's informal influence in, for instance, the handling of disputes between neighbours and related problems, for which Scott Thomson has found evidence for the period covered by her study (86). Such mediation, however, could only be systematically offered by a person normally resident in the county and one who did not rely on deputies. This aspect of the lieutenant's work became more marked in the period after 1660, to which we now turn.

(b) The lieutenancy in the later seventeenth century

In the decades which followed the Restoration various

trends converged to promote the Lord Lieutenant to the position which he was later to occupy in county organisation. Firstly, as we have seen, the Judges of Assize withdrew from local involvement. Secondly, and more importantly, the role of the lieutenancy itself was being redefined and the idea of the Lord Lieutenant as an influential figurehead in local organisation and local politics was reinforced.

Joint lieutenancies, for instance, became rarer. The last lieutenant to act in Surrey as well as in other counties simultaneously was appointed in 1701. At his death in 1714, his successors were appointed to act in the one county only (87). Similarly joint commissions, that is to say the appointing of several lieutenants to one county, also gradually disappeared in the second half of the seventeenth century. In Surrey no such arrangement occurred after 1660.

The non-military aspects of the role of the Lord Lieutenant were developed in the second half of the seventeenth century, when he was increasingly seen as a useful and necessary channel of communication between central and local government. A well-documented example of this occurred in 1687/8 when James II sought to sound out the reaction of public opinion to the repeal of the penal laws and Test Act. Lords Lieutenant were instructed to

ascertain whether their deputies and other Justices of the Peace would accept such measures (88). Thus the lieutenancy acquired a political role, which, in the eighteenth century, became party political. The Lord Lieutenant's influence over the conduct of elections has already been alluded to and will be discussed more fully below. The political significance of the appointment of lieutenants is shown by the fact that dismissals were not unknown in the second half of the seventeenth century and again in the politically unsettled early years of the reign of George III (89).

The increasingly close association of lieutenants with the civil administration of the counties is symbolised by the fact that the office of custos rotulorum was, from the second half of the seventeenth century onwards, frequently adjoined to the lieutenancy. This practice was adopted late in Surrey. It was not until 1737 that the two offices were held by the same man. In that year, Thomas Lord Onslow, who had succeeded his father as Lord Lieutenant in 1717, was appointed custos on the death of James Earl Berkeley (90). When Thomas Onslow died in 1740, his son Richard inherited both offices as a matter of course (91). The custos rotulorum was nominally responsible for the rolls of the court of Quarter Sessions, but the position was essentially honorific. Clearly, the combining of the two functions enhanced the position of the Lord Lieutenant in

the county, although such power as he had was also derived from his position as a landowner. It may thus be more appropriate to attempt an assessment of the effectiveness - rather than its influence - of the lieutenancy in the eighteenth century.

(c) The Surrey lieutenancy in the eighteenth century

In Surrey, as has been mentioned, the lieutenancy tended to be inherited and for the greater part of the eighteenth century the office remained in the same family. Each of the first four lords Onslow succeeded to it in turn: Richard in 1716, Thomas in 1717, Richard in 1740 and George in 1776. The tradition was broken in 1814 when the 4th viscount Broderick succeeded the first earl Onslow.

By most standards, the first Lord Onslow was ideally suited to become Lord Lieutenant. A whig but an independent personality, he had a distinguished public career, both as an MP (which he was almost without interruption from the Convention Parliament to his elevation to the peerage in 1716) and in government office (he eventually became Lord Chancellor for a short period in 1714-1715) (92). As Speaker, an office to which he was elected in 1708, his reputation was more that of a staunch party supporter than an impartial interpreter of parliamentary conventions. He was popular with the gentlemen of Surrey - Evelyn's diary mentions his lavish entertaining of the Surrey squires in

1697 (93) - although his position among older established families such as the Westons, the Mores and the Oglethorpes was not as secure as that of his son, the 2nd Lord Onslow would be. His military experience also fitted him for the office. He had been lieutenant colonel of the first regiment of marines from 1690 and he showed a marked interest in the post-Restoration debate on the militia (94). His lieutenancy was too short to provide his successors with a blue-print, but appointment may be seen as significant in the social context of reinforcing the status of the Onslow family in the county.

He was sufficiently successful in this endeavour to ensure his succession by his son, whose gaucheries have been unflatteringly described by his cousin Arthur Onslow, the great Speaker (95). By his account, the second Lord Onslow lacked most of the social graces and failed to fully exploit the obvious advantages of his position both at court and in the county. At the local level, he dutifully continued his father's work: the house at Clandon was finished in the 1730's. With his wife's dowry, the Onslow estates were considerably extended: Guildford Park was bought in 1709 (it was later disparked and turned into four farms), the manor of Somersbury in 1714, the manor of Burgham in 1720 and the manor of Shalford Clifford in 1726. His business projects included the setting up of the Royal Exchange Corporation in 1720. He was MP successively for Gatton, Bletchingley,

Haslemere and Chichester, an indication of the breadth of the Onslow influence, but his political career was undistinguished. He was the victim of an assasination attempt in 1723 which has tentatively been ascribed to a group of Surrey Jacobites, though the evidence is not conclusive. Edward Arnold, the perpetratror of the attack, was probably unbalanced if not mad, but there is some indication that he was acting at someone else's instigation. At any rate, the fact that Thomas Onslow was singled out suggests that he was seen as one of the representatives of the county establishment (96).

The influence of the first two lords Onslow as lieutenants cannot be distinguished from their influence and responsibilities as leading members of the county's ruling class. They were more discreet or less secure in their position than Lord Cobham was in Buckinghamshire for instance: the latter felt no compunction about pressing for (and securing) legislation maintaining the Summer Assizes at Buckingham, which was inconveniently situated in most respects, but where he had much personal influence (97). Richard Onslow's lieutenancy, on the other hand, beginning in 1740, comprised a number of specific challenges and his career as a lieutenant warrants closer scrutiny. By the time of his appointment, the hegemony of the Onslow family in Surrey was unquestioned. He inherited a vast fortune, which, like his forebears, he continued to invest in property. (In

1752, for instance, he acquired the estate of Walters of Busbridge.) His marriage to the second daughter of Sir Edward Elwell, a Surrey Justice of the Peace and MP for Guildford, though unhappy, added to the family fortunes and reinforced the Surrey connexions (98). The third Lord Onslow was rather more comfortable in the role of country gentleman - racing horses and meeting his neighbours - than, in Vulliamy's words, adept at the 'impudent sarcasm of the professional courtier or the talk of men of taste and erudition' (99). Although no large body of evidence survives to document the lieutenancy in Surrey in the middle years of the eighteenth century, those fragments which do, provide some basis for the beginning of an analysis of the role of the Lord Lieutenant in that county in the reign of George II, most notably as military leader and as custos rotulorum.

(i) The militia

Of the often ill-defined duties which fell to lords lieutenant in the eighteenth century, the responsiblity for the military defence of the counties, or more specifically their militia, was probably the most clear-cut and may be used as an indicator of how seriously the office was taken. In this, however, the lieutenants were at the mercy of the response of the men and the officers of their regiments. It is perhaps not sufficiently stressed that, in J.R. Western's words, the lieutenancies 'were not empowered to exact very much from the subject' (100). At any rate there is little

evidence for regular mustering in Surrey after the seventeenth century, a state of affairs which is reported as fairly common in other countries. The 1667 threat of a Dutch invasion (in which half the Surrey force was expected to gather at Southwark) showed up the deficiencies of the militia as a military organisation (101) and its function of domestic repression, provided for under the 1660-1 acts was increasingly disliked. At that period, the militia was at its most visible in its work against dissenters and disaffected people. Dissent and disaffection comprised a wide spectrum of views; the status and rank of individuals did not necessarily protect them from the militiamen, as Arthur Onslow, grandfather of the Speaker, found out in 1683 when his house was searched by the militia (102).

The other important peacetime activity of the militia related to the supervision of parliamentary elections, when its presence was tolerated early in the century, perhaps as a necessary evil, although by 1741, the Gentleman's Magazine recorded a complaint by the Middlesex Grand Jury about the presence of fifty soldiers hear a polling place during elections (103). These soldiers were probably not militiamen, but by then any military presence was frowned upon.

It is no accident, however, that as the militia faded as an effective force towards the later part of the

seventeenth century, the lieutenancy's tangible power weakened too. Conversely, when the military challenges of the middle years of the eighteenth century stirred the lieutenants into action, so the lieutenancy became the focus of activity for local defence, and, at Lord Onslow's prompting, an association to raise a regiment of county militia was formed after a county meeting had been held at Kingston-upon-Thames. The regiment, commanded by Lord Onslow as Colonel, was not tested in the field, and, in a rather harsh assessment, the fifth Earl Onslow, writing in 1924, commented of his ancestor's regiment that 'it can hardly have been said to have existed except in embryo' (104).

The latent hostility to the militia, from both men and officers in the county, became apparent on its reconstitution in 1757. Even before the passing of the act which renewed and reorganised it, Speaker Onslow, who was heavily involved in the drafting of the legislation, could not have failed to have been aware of the mood of opposition among the men of the county. In the recess before the passing of the act, his coach was followed for a distance of fifteen miles from Guildford to his house at Ember Court by a crowd hostile to the proposed legislation. He could not placate it 'but by promising no further steps should be taken till the next session of parliament' (105). Thus, from the beginning, Lord Onslow was confronted with a serious problem and indeed, it was not until January 1759 that the

Surrey militia regiments began to be raised. Three fifths of the quota of men were then chosen and the commissions issued (106).

The levies in the westernmost part of the county attracted the mixture of men which the legislators had hoped for: of the 75 men whose names survive on an early reconstituted militia roll for Godalming, Farnham and Blackheath hundreds, 10 were labourers and the others skilled artisans, frequently stocking weavers, as might be expected in that part of the county. Less predictable were the trades of the other men: a tinplate worker, a woolcomber, a hoop shover and a furnaceman appear in the list (107). Though this is only a fragment, it may be suggested that the make-up of the Surrey militia was broadly similar to that of Northamptonshire for which fuller (though later) accounts survive (108).

Any enthusiasm that the Surrey men may have had must have been dampened by the lack of organisation and the lukewarm response of the officers. In a letter of 1759 to an absentee officer (presumed to have been Captain James More Molyneux), Nicholas Dunbar, adjutant to the first battalion of Surrey militia, reported: 'I would not, for any reward, not have been here, there were about seventy of your men here and were greatly disappointed that they got not their cloaths, and arms ... ' (109). This lack of interest on the

part of the officers was widespread and from the top downwards. The Duke of Newcastle who was Lord Lieutenant for Middlesex, Nottinghamshire and Westminster, expressed himself unambiguously on the issue in 1761:

> I see a spirit of folly and faction in many counties determin'd from those principles only - to carry this Militia Act into execution - or rather not to suffer [it] to drop quickly which was certainly the wish and desire of almost everybody. I always fear'd this would happen; tho' I was for the bill. (110).

He went on to explain that this spirit of faction had developed along party lines in Essex and provided a succinct account of the situation as it had evolved in Surrey:

> This is the case in some degree in Surry, not from the Tories (for I don't hear they have interfer'd) but from your freind [sic] Mr Hunter (who is a captain) has wrote an animating letter, which has made them all wild, much disquieted the Speaker, & put them into a fuss when they expected none ...

The row which arose out of Thomas Orby Hunter's action did not, however, have a long term effect in promoting interest in the militia from either the Tories or the Whigs in the county (111). The weakness of the officers' support was endemic. Richard Onslow himself resigned his colonelcy in favour of Nicholas Carew of Beddington soon after the raising of the regiment (112). Carew was confronted with the same problems. When the November 1761 marching orders for the Surrey militia came, one of his correspondents expressed

the hope that local pride would encourage an orderly and disciplined march to Salisbury (113). Significantly, the correspondent then added: 'the towns we march through being very good ones will I hope be an additional inducement for the officers to be present'. The disembodiment of the Surrey militia - along with that of other counties - on the cessation of hostilities in December 1762 must have come as a relief. Symptomatically, James Chambers, Clerk to the regiment, was still failing to get the captains to render accounts for their expenses and to pay the balance of the money remaining in their hands in April 1764 and petitioned the Treasury for help (114). Difficulties of a similar nature were reported later in the century: the quotas were not being met and the officers were either inactive or too old (115) and special legislation was passed in 1799 in an attempt to alleviate these problems (116). It is a measure of the poor Surrey response that the county was one of two for which legislation proved necessary, the other being Middlesex, whose large urban population made the raising of levies difficult.

The failure of the militia in Surrey cannot be wholly blamed on the wavering support of the Lord Lieutenant. The proximity of London may have had some bearing on the situation, since many of the Surrey gentlemen were commissioned to act in London. Thus Sir Kendrick Clayton, Sir James Colebrook, Joseph Mawbey and Ralph Thrale, all

four of them active in public affairs and likely to have taken some sort of interest in the militia appear on a list of commissioners of lieutenancy for the City of London (117). Similarly, those gentlemen whose estates extended beyond Surrey chose to act in other counties: William Hammond, for instance, a very energetic Justice of the Peace, was commissioned for the Southampton militia (118). Many of the 86 deputy lieutenants appointed in 1761 could not possibly have been expected to take an active part in the militia: Arthur Onslow, whose name is included on that list, was then 70 and cannot have wished to share the rigours of military life (119).

For a combination of reasons, then, Richard Onslow failed to provide the enthusiasm and organising ability required for the militia to be successful. His failure to attract the respect of the other county gentlemen and his administrative ineptitude were further demonstrated by his actions as custos rotulorum.

(ii) The custos rotulorum and the clerk of the peace.

As was noted earlier, Richard Onslow was the first Surrey Lieutenant to be appointed custos rotulorum from the beginning of his term of lieutenancy. His father had succeeded to the office some four years before his death and there is no evidence of his having committed much time or energy to the duty. The responsibilities of the

custos rotulorum, it should be said, were not onerous. In addition to a general overview of the county records (in practice actually undertaken by the Clerk of the Peace), they entailed the appointment of the Clerk himself and the presiding at the General Sessions of the Peace, which were very rarely held. Originally in the gift of the Lord Chancellor, the appointment of the custos rotulorum was transferred to the Crown in 1688 (120).

The office, like the lieutenancy, offered the government an administrative channel to local government. Thus, in 1711, James Earl Berkeley, then custos for Surrey, received a summons from the Privy Council to provide a safe place in the county to keep the Surrey seamen who had been pressed into the fleet. He was expected to pay serious attention to this order: ' ... and of all the steps and progress which shall be made herein your lordship must enable yourselfe to give frequent accounts to this board ...' (121).

The most important perquisite of the office of custos was the appointment of the Clerk of the Peace. This latter position was a most significant one since extensive local patronage was vested in its holder. Its influence ranged, as we shall see in later chapters, from the ordering of Quarter Sessions agendas and related administrative duties and legal processes, including the discussing of cases with the

foremen of juries, to social involvements, as when Robert Corbett, Clerk of the Peace from 1706 to 1742, suggested to Speaker Onslow that one of Justice's Barker's daughters could turn out to be a suitable match (122).

Richard Onslow's selection of Clerks of the Peace demonstrated an impatience with administrative procedure and a lack of understanding, surprising in an eighteenth-century gentleman, of the expectations of the system of patronage then prevalent. If his first appointment, in 1742, of Thomas Miller of Guildford, as Corbett's successor was uncontroversial, the following appointments caused both difficulty and embarrassment. On Miller's death in 1751, Onslow chose Richard Williams of West Clandon (a close neighbour), who took his oath on 21 May 1751 (123). The first hint of trouble occurs in the records of the court of Quarter Sessions of Epiphany 1754, when the bench was apprised of the fact that the position of deputy clerk, originally granted to Alexander Akehurst by Richard Williams for the term of his clerkship, had been granted again, and apparently completely illegally, to a John Chetwood for a term of twenty one years at a rent of three hundred pounds. The court refused to accept the new appointment, partly on the grounds that Akehurst's work had been satisfactory and partly because the first grant was legally binding. The Justices then determined to send a message to Lord Onslow to let him know what their meeting had decided and to 'desire

his lordship will not accept any surrender of the Clerk of the Peace of this county or make any new grant of office without the court being first acquainted with it ... ' (124). This clause is particularly significant. For while there is no doubt that the custos was well within his rights to appoint without consulting the bench, it was inadvisable to do so without some sort of discussion, if only of an informal nature, with the senior justices of the county. That the Surrey bench felt the need to specify this suggests that they feared that Onslow might well act without referring the matter to them.

At that stage, the Surrey magistrates were anticipating the resignation of Richard Williams on account of his untoward action. The justices then decided that a special adjournment of the court should be held to discuss the issue at length. The second meeting was held on 5th March 1754: seventeen justices attended and Sir William Richardson, an experienced senior justice, presided. Extensive minutes of this meeting survive and incidentally show a highly developed sense of procedure among the magistrates. Their worst fears were realised when John Chetwood produced a deed, signed by Lord Onslow, which, after reciting Richard Williams' resignation, proceeded to appoint Chetwood Clerk of the Peace. Chetwood was called upon to give evidence but declined to do so. Witnesses appeared and provided evidence of Williams' financial embarrassment. The fact that the

Clerkship had effectively been sold by Williams to Chetwood for some £1600 (part of which was owed to Justice Belchier) (125) gives some clue as to the lucrativeness of the office. Akehurst, the deputy, then appeared as a witness to report on a conversation which took place in his presence at Waghorne's coffee house between Lord Onslow and Justice Webb (126). This conversation illustrates well Onslow's attitude to the whole issue. He explained to Philip Carteret Webb that

> The affairs of Mr Williams the Clerk of the Peace had made it necessary for him to go abroad and therefore Lord Onslow had determined to appoint his brother Mr John Williams Clerk of the Peace in his room (...) Upon this Mr Webb asked his lordship how this could be done consistent with his appointment of Mr Chetwood, to which his lordship said that since his appointment of Mr Chetwood he had heard a very bad character of him and that therefore the matter should be left to him and would be easily settled ... (127)

Onslow failed to understand the implications of his decision to appoint and the binding nature of this sort of action. Further evidence of his carelessness survives in the State Papers: when he appointed Viscount Fitzwilliams deputy lieutenant for the county, he managed to get his name wrong in his initial letter of recommendation and had to write a second letter to William Pitt, asking him to set his mistake right (128).

His standing can hardly have been enhanced among the

Justices of the county, particularly the active ones. In the case of the Clerkship, Onslow's stubbornness led to many complications, for although the bench (and not the custos) obtained from Chetwood a disclaimer to the office, the matter was not settled then. In July 1754, the long-suffering Akehurst was ordered by the court (and not by the custos) to keep the records of the court until the dispute, which had been taken to court, should end (129).

(d) The lieutenancy and the leadership of the county

It may be stated with some confidence, therefore, that the Lords Lieutenants in Surrey in the reign of George II did not play a determining role as leaders of the county and thus failed to claim for the lieutenancy the status and power which it might have attained. A number of factors contributed to this situation. The Onslows, as relative newcomers to the county elite, still had to contend with the aspirations of older and longer-established families. The personalities involved did not promote the office into an unquestioned leading role. This was not so much due to a lack of interest in the responsibilities of the office as an inability to play the required part of conciliator and representative. Thus, when Richard Onslow wrote to the Duke of Newcastle to obtain the commutation of the death penalty passed on a felon tried at the Surrey Assizes - a duty often informally expected of lords lieutenants - his effort did not match the more elegant petitions filed in the Newcastle

correspondence:

> My Lord duke - I shall take it as a favour if you will gitt [sic] the person that robbed is [sic] name is John Sturmey to be transported. Your most obedient servant, ... (130)

Newcastle's answer, couched in the more usual phraseology of such requests, provides hints as to how Onslow should have asked for the commutation:

> My Lord - I immediately refer'd the case of John Sturmey recommended by your Lordship, to the Judge, before whom he was tried, and having received his report, I laid the state of it, yesterday, before the King. It appearing by the judge's report that no circumstance occur's, upon the trial in favor [sic] of the prisoner, His Majesty did not think proper to make any alteration in the sentence, which had been passed upon him ... (131)

Onslow's recommendation should have mentioned Sturmey's family circumstances and included neighbours' character references. He should have argued that certain attenuating circumstances might be taken into consideration. He might have informally discussed the case with the Judge. If no possible excuse for Sturmey's robbery could be found, it would have been wiser to abstain from making the recommendation in the first place, to avoid the possibility of being rebuffed. Douglas Hay who has pointed out the importance of the pardon in the 'ideology of mercy' and its significance in the system of patronage has stressed how

much the application for mercy mattered not just to the person under sentence of death, but to the person who was attempting to negotiate for one:

> The ability to obtain a pardon was recognized as a mark of importance among the great and propertied. A landowner who could not obtain one was well aware that his prestige could suffer - and this fact itself was advanced sometimes as a good reason for granting the boon. (132)

In a difficult case, it might also be necessary to enlist the support of other courtiers and peers, as well as that of the local community to which the felon belonged (133). Thomas Lord Onslow, the previous Lord Lieutenant, awkward though he may have been, understood that well. When, in 1734, he petitioned for the pardon of Joseph Pierce, an excise officer who had issued a counterfeited receipt, his request was one of a number of such appeals: other petitions on behalf of Pierce included one signed by 38 inhabitants of the parish of Ewell (134).

If, however, because of their personal failings, the Surrey Lieutenants did not affirm the role and dignity of the office, it is important to stress that the unclear expectations of the government in relation to the office gave individual lieutenants few props to establish definite areas of responsibility. The Lord Lieutenant had no coercive powers. In his commentary on the eighteenth-century constitution, E.N. Williams suggested that the significance

of the Lord Lieutenant rested not on administrative duties, of which he was expected to perform but few, but on the vital role he played in waging the 'party war' (135).

The best recorded example of a Surrey Lieutenant directing an election antedates our period, when, to avoid disturbances in the elections which ensued on Charles II's death, the Duke of Norfolk, then Lieutenant for Surrey, Berkshire and Norfolk, arranged for the elections of the Knights of these three shires to be uncontested. He ordered his deputies to get the county electors to agree on their candidates whom he promised to support. When the Surrey electors nominated three candidates at their county meeting, the outcome was settled by a secret ballot proposed by Norfolk himself who was attending the meeting (136). While it is probably true that in this case the Lord Lieutenant was not so much concerned with the result of the election as with maintaining the peace, this incident shows the possibility of manipulation open to him in this context. Thomas Lord Onslow interfered more discreetly in 1727, when a continuing wrangle in the Whig camp threatened their success at the poll. Lord Onslow decided to retrieve the situation by pressing for the canditature of Arthur Onslow (who up to then had been returned for the less prestigious seat of Guildford) as Knight of the Shire. Arthur Onslow's account of the episode makes Lord Onslow's thinking plain:

> We, in Surrey, by a division among the whigs there had not been fortunate in some late county elections, and my Lord Onslow had a notion that he might in some measure recover that, at least our family interest, by making me stand for the county, to which I was very much averse. (137).

Arthur Onslow was triumphantly returned and never encountered any further opposition in the rest of his political career. Indeed, for the rest of the reign of George II, none of the general elections for the Knights of the Shire were contested at all. The Opposition Whigs, however, were allowed to monopolise the other county seat up to 1751, when Thomas Budgen, an active Justice of the Peace and a government supporter was returned in a bye-election (138). There was little need for manipulation by the Lord Lieutenant in such a stable situation.

Because of the vagueness of the terms of reference of the office in the eighteenth century, it could be argued that the Lieutenancy could only come into its own in times of crisis - military, political and indeed, (pace Williams) administrative. Examples of military and political difficulties have already been discussed, but it may be worth mentioning a practical emergency in which use of the lieutenancy was made. It has been shown how, in the pandemics of rinderpest which affected much of Europe in the eighteenth century, the English government relied on an increasingly narrow group of local representatives - normally the Lord Lieutenant and one or two senior Justices

of the Peace in each county (139).

Overall, the military function of the office remained the most obvious one, at least down to the passing of the Army Regulation Act of 1871 (140). Even after that date, however, the Lord Lieutenant still concerned himself with local military issues: in the first World war, for instance, local emergency committees were often established under the aegis of the Lieutenancies (141). The administrative duties which came within the purview of the office grew significantly only in the nineteenth century - when complete control over such matters as the appointment of Justices of the Peace was vested in the office. This nineteenth-century evolution coincided with meritocratic rather than hereditary lieutenancy appointments. A final symbol of the professionalisation of the office was the creation, in 1908, of the Association of Lord Lieutenants (142).

If it is true that the weakness of the Lieutenancy in eighteenth-century Surrey can be ascribed to structural disorganisation as well as personal mismanagement, it could also be argued that, except in times of crisis, neither the government nor the local gentry would either have wished for or tolerated powerful lieutenancies. (The holding of the position by a man like Richard Onslow, who by the criteria of his own, educated, class must be regarded as something of a blockhead, would therefore not be unwelcome.) It was made

clear to the Onslows that the county would accept their control of only one of the two county seats in Parliament. To have attempted to claim a right to the other one would have created much unpopularity, as Arthur Onslow himself recognised (143). It is in the context of such constraints that the emphasis on the role of informal mediator which had been pressed onto the Lord Lieutenants at various times by the government should be understood. That there was a place for such a person there is no doubt, but it is to oversimplify the picture to suggest that only a Lord Lieutenant could act in that capacity. In eighteenth-century Surrey, where the personalities involved did not, perhaps, lend themselves easily to such a function, the responsiblity was assumed by Speaker Onslow. As a frequent chairman at Quarter Sessions and as a popular member in Parliament, he had the ability, experience and personality best suited to the role of mediator (144). It is most significant, for instance, that when Thomas Orby Hunter alienated the Tory gentlemen in 1761, it was not the Lord Lieutenant's response which mattered most to the Duke of Newcastle but that of the Speaker. Similarly, when Justice Moreton was writing to Hardwick about the scheme to establish a turnpike road from Sutton in Surrey to Pease Porridge Gate in Sussex, he commented:

> I take it for granted (if any scheme should be formed) that the Speaker will be waited on for his approbation and assistance before any attempt is made for carrying it into execution ... (145)

Much of the foregoing undermines John Aubrey's assertion that the Lord Lieutenant personally directed the whole county and it becomes necessary to account for his description. Two explanations may be offered for it. Firstly, his book, written in the late seventeenth century, took as reference a period of tension, both politically and militarily. County musters held in the name of the Lord Lieutenant and elections supervised by him were regular reminders of the significance of the office in the second half of the century. Since the Lieutenancy was at its most forceful in periods of crisis, it is perhaps not surprising that Aubrey should have seen it as so important to the running of the county. The influence of the Lord Lieutenant, however, was not constant and depended on the goodwill of both the Crown and government on the one hand and that of the county gentlemen on the other. This consensus could not be altered without consequence for the Lieutenancy, a situation which occurred in the reign of James II. As A. Browning pointed out:

> At a later date James II was foolish enough to imagine that he could dismiss and appoint lords-lieutenant at will without impairing the authority of their office. (146)

The political battles which centred on the appointment of Lieutenants at that period may have obscured the weakened influence of the office. The second explanation for Aubrey's statement is that there is little doubt that he was speaking

from a theoretical point of view. Conceptually, the lord lieutenant, as the local representative of the Crown, was the leader of the county. In practice, as we have seen, the lieutenancy neither had the will nor the power to be as significant as Aubrey assumes, at least for the greater part of the eighteenth century. The fact that he mentions the High Sheriff as an important personality in local government but fails to refer to county and borough magistracies gives us grounds to suspect the validity of his analysis at any rate as far as the practicalities of local administration are concerned.

V Conclusion: Governmental interference in local affairs.

From the evidence investigated in this chapter it is clear that the institutions of local government offered the central administration many possibilities of interference. Though the Judges of Assize's influence had waned, though the lieutenancies had not yet developed the powerful administrative role which they were to acquire in the nineteenth century, though the local gentry felt secure in the independent running of their counties, there is little doubt that central government had at its disposal some control over the administering of the localities - firstly through a careful use of the machinery of appointment (for Judges of Assize, Lords Lieutenants and Justices of the Peace) and secondly through the procedures traditionally

open to central government. Royal proclamations, orders in council and 'circular letters' endorsed by Privy Councillors could and were made use of in the promoting of government policy in the counties. Thus, in 1737, the Lords present at the Privy Council meeting of the 17 March signed a circular letter to the custodes rotulorum of the several counties within the Home circuit to encourage the execution of the act against the excessive use of gin (147). Similarly, the Council discussed a proclamation on enlarging the bounty for seamen who proposed to enter into service and another prohibiting the export of gunpowder (143). Again, in 1736, the Commissioners of Customs proposed that an order in council be sent to each county to enforce acts relating to revenue, particularly the Act of Indemnity (149).

Interference in the legal system was also common. As we have seen, in addition to having a say in the appointment of the personnel involved, the Crown, on reports channelled through the Secretaries of State and often on the recommendations spontaneously proposed by the Judges of Assize, did grant reprieves to convicted felons. The State Papers abound with such recommendations. A different form of government control over the legal procedure is instanced when, in 1758, the Commissioners of the Treasury required Philip Carteret Webb, solicitor to the Treasury and a Surrey Justice, to investigate a memorial submitted by a large number of poor people in Surrey and Sussex, complaining

about the activities of mealmen in the Witley and Godalming area of Surrey. The Attorney and Solicitor General's report on the case not only assessed the evidence but also proposed the course which the prosecution should take to ensure a conviction:

> We are of opinion that the fact alledged in the annext memorial amounts to the offence of engrossing; and is punishable either by indictment or information at the Common Law. As there may be difficulties in conducting a matter of this consequence before a Grand Jury, in the county, the best method seems to be to proceed by way of information ... (150)

Interference in the course of specific actions on the civil side also occurred. When, in 1750, Lord Aylesford - an active Surrey Justice - found that his servant John Bradgate had been arrested in a case of slander he had no compunction about asking Hardwick to interfere in the action which was to be heard before the court of King's bench (151).

There is no doubt, therefore, that government could and did act over relatively trivial issues, many of which had only a local significance. It remains true, however, that central governmental intervention is of a specific nature: provided that the counties remained peaceful and returned government supporters in the House of Commons the administration of local affairs was left to the communities. For it can be claimed with some certainty that the only local subject which attracted the systematic attention of

government was in fact elections. In that context, no detail was too small. In the 1740 county election, Arthur Onslow listed his supporters in a letter to Hardwick (152). Influential men like the Claytons, who controlled the boroughs of Marlow in South Buckinghamshire and Bletchingley in Surrey, sought very particular advice on political issues. After the 1761 election, Kenrick Clayton, also an active Surrey justice, wrote to the Duke of Newcastle:

> ... Mr Evelyn is my neighbour, he solicited me as soon as the general election was over to attend his petition, to which I gave no answer, being very unwilling to do anything against your Grace, with whom I have acted without deviation ever since the year Thirty Four ... (153)

Unlike its Tudor predecessor, eighteenth-century central government did not feel it to be its duty to impose yardsticks according to which counties should be administered - such decisions were to be taken locally. For though Parliament was cognizant of many initiatives which affected the running of county administration, whether it was the building of turnpike roads, the provision of hospitals and almshouses or the enclosure of common fields, these developments were prompted by groups of local men, and often the MPs themselves. It is not until the nineteenth century and with the creation of such government agencies as the Local Government Board that central government started collecting large amounts of information about the administration of the counties. In the eighteenth century,

such a situation did not obtain. An analysis of the correspondence between active Surrey justices and Newcastle and Hardwick up to 1760 shows that of 98 letters written by 18 different JPs, approximately 5% concerned purely local issues, another 15% local elections, 22% referred to personal matters, 26% to military and political issues and the remaining 32% discussed the appointment and preferment of relatives and friends. When one considers that the Duke of Newcastle frequently entertained at his seat at Claremont in Surrey and might be expected to have taken a personal interest in local problems, the lack of discussion of county issues is striking.

In such circumstances, it is easy to see how the local magistrates came to dominate the system of local administration and why their selection and appointment was of such consequence. The duplication of personnel at Assizes has already been commented on; the homogeneity of the magistracy will be discussed later in the thesis. Throughout the period, the recurrence of the same individual JPs, Assize Grand Jurors, merchants who advised the government, petitioners to the Privy Council, benefactors of institutional charities or local government commissioners is noticeable. It was through control of this process of selection that the government implemented its policy. This system worked effectively in Surrey where, as we shall wee, over a quarter of the active Justices were or had been MPs

also. It may be argued, therefore, that although central government expressed relatively little interest in the administration of the counties and was generally reluctant to introduce general legislation to further local policies, the magistrature - which undoubtedly had acquired a remarkable degree of control over local administration - nevertheless did not act in a vacuum. Through meetings at Assizes for instance, or through attendance at the House of Commons, the Justices of the Peace acquired more general points of reference. They not only acted as intermediaries between central government and the localities, but also between county and county, and even between parish and parish. To the organization and aspiration of these local communities - a central part of this thesis - we now turn.

PART ONE: THE LOCAL COMMUNITIES

CHAPTER ONE: The leet, the Archdeacon's court and the vestry.

In the eighteenth-century theory of local government, the parish was the unit of local administration below the county. This was especially true of the rural areas of England, where poor relief, rating and taxation, law and order, the maintainance of roads and many other functions were organised at that level. At this stage, it may be appropriate to stress the fact that administrative boundaries, then as now, mattered to parishioners only in administrative contexts. Thus, while they might be careful about acquiring the residence qualifications which would enable them to claim poor relief, they might well also have their children baptised at the church nearest to their hamlet which was not necessarily their parish church. Examples of this occur regularly in the hamlet of Speen in the parish of Princes Risborough in Buckinghamshire whose children were often baptised in the neighbouring and closer church at Hughenden. In Surrey, the parishes of Walton on the Hill and Burstow were similarly affected. But if administrative sources promote a structured interpretation of a world which had only relative substance in people's minds, it remains true that the sixteenth-century reorganisation of local government, which grafted many civil

functions onto the original ecclesiastical framework of parishes, reinforced an awareness of parish boundaries. Gradually, the significance of the parish to individual citizens was established. It is aptly described by Richard Mabey in his introduction to Gilbert White's Natural History of Selbourne:

> 'Parish' is a very laden concept. It has to do not just with geography and ecclesiastical administration, but with history and a system of loyalties. (1)

Before the advent of the parish as a unit of civil administration, however, another framework which comprised manors, hundreds and liberties, provided the structure within which local communities administered themselves. These older institutions had not completely disappeared by our period and indeed bequeathed a number of important features to eighteenth-century administration. One may note the adaptation of the offices of constable and high constable from that older context into the new organisation and the survival of the hundred and the hundred jury in Quarter Sessions procedure all of which will be discussed in the course of this and subsequent chapters. The manor in particular still retained considerable significance, if not as an administrative unit, certainly in the organisation of villagers' lives and requires some explanation.

I Vestiges of pre-Tudor administration

A. The manor

The local organisation of mediaeval Surrey, as that of most counties in the Midlands and the Thames valley, was characterised by an extensively developed network of manorial courts, through which the rights and duties of the owners of large estates - the lords of the manor - and those of their tenants - both freeholders and copyholders - were asserted and defended. M.M. Postan has averred that the manor differed from large estates of other periods precisely because of its role in mediaeval government:

> Its special role in mediaeval government derived from its being held in fief: as a tenancy conditional on the discharge of certain functions in war and administration. In so far as its owner exercised these functions, and as long as he exercised them, the estate was an essential part of the mediaeval state, its component cell. (2)

The precise nature of the role of the manor has varied from manor to manor and from period to period, as broad surveys of manorial organisation have revealed. Eighteenth-century manuals on manorial courts, of which a surprising number were published in the first half of the century (3), give a clear account of manorial structures as perceived by the legal thinkers of the time. Briefly, according to these commentators, the 'classical' manor was governed by two

courts, the court baron and the court leet. The court baron, the private court of the lords of the manor, dealt with disputes between themselves and their tenants, registered land transactions on its rolls and recorded the receipt of customary dues to the lord. the leet, on the other hand, was seen as a public court, held on behalf of the Crown. As late as the sixteenth and even the seventeenth century, the leet was assumed to be an integral part of the mechanism which enforced law and order at a local level. This assumtion was reinforced by the passing of a significant number of Acts of Parliament which specifically mentioned leet jurisdiction (4). It was at the leet that several of the local officials whose function was to ensure the smooth ordering of the community - the constable, the headborough, the aleconner and the hayward - were appointed. To the leet was often added the view of frankpledge, a census of neighbourhood groupings responsible for the good behaviour of the members of the group, but though the expression is commonly found on eighteenth- and even nineteenth-century rolls, the system of communal pledges had completely disintegrated by our period.

Eighteenth-century legal treatises suggested that the court leet had taken over, by royal grant, the responsibilities of the sheriff's Tourn. Attendance at the leet therefore excused attendance at the tourn, which, according to these commentators, explained the latter's decline in areas where leets had been granted. The leet was

empowered to deal with criminal cases but could only impose fines. This distinction between the private court of the lord and the public manorial court led to tortuous arguments over a number of judicial issues. A good example of the difficulties encountered by legal authors may be cited in connexion with the jurisdiction of both the leet and the court baron over assaults. In that case, it was held that where blood was drawn, the assault was termed a public nuisance and conversely, where the assault did not cause obvious injury, it was deemed a private grievance, and this distinction led, in theory at least, to the case being heard before the leet in the former case and at the court baron in the latter (5). In practice, it was rare for this to occur, firstly because by the eighteenth century the case was much more likely to be referred to Quarter Sessions and also because the distinction between the leet and the court baron was a post facto legal rationalisation.

Indeed, most court rolls, even up to the seventeenth century, do not distinguish between the two courts and the entries record under a single heading transactions which legal theory would not recognise as properly belonging to the business of such a general court. The rolls of Tooting Beck manor in Surrey show many examples of the court taking cognizance of both private grievances and public nuisances at the same time (6).

Hearnshaw, in his careful analysis of the development of the manor, suggests that it was only gradually that 'the leet, from being a collection of rights, became, in legal theory, a court' (7). The legal theory, which was fully elaborated by the end of the fifteenth century, in turn affected the reality of manorial organisation. It is not unusual to see the format of court rolls change as new stewards and lords of the manor took over, and, guided by their manuals, substantially altered the way in which the business of the court was transacted. Thus, when John Manship, an active Surrey Justice of the Peace, became lord of the manor Biggin and Tamworth in Surrey in 1745, court practice was tightened up. Whereas, in the years preceding his lordship, only courts baron were held, the leet was reintroduced (8).

How far the manorial courts were important to the administration of local communitites in eighteenth-century Surrey is a moot point. While it cannot be denied that the eighteenth-century manorial organisation had lost the vitality of that of earlier centuries, it could be argued that its significance has been underrated by more recent historians (9). The quite extensive survival of manorial rolls for Surrey manors in the eighteenth century suggests some significance. The rolls of a sample of twenty-nine Surrey manors which cover all or the greater part of the 1727-1760 period were investigated and clearly show some

involvement with local administration. Of this group, twelve did not differentiate their courts or did not hold a leet. The other seventeen held more or less regular leets, in addition to courts baron, and all seventeen exercised their right to nominate local officials (10).

How then did the manor affect the local communities in the eighteenth century? Undoubtedly, the customs which governed manorial land tenure were of paramount importance, particularly in rural areas. For, if it is true as Stevenson noted in his survey of nineteenth-century agriculture in Surrey, that the greater part of the land in the county was freehold (11), a still important proportion of it was copyhold and thus subject to various manorial incidents. More important still, a substantial proportion of this land was exploited communally in open fields. As late as 1791, for instance, one fifth or 1600 acres of the parish of Egham in the north of the county was still open field (12).

Decisions relating to the exploitation of open fields and wastes were crucial to eighteenth-century village organisation. If the quota of animals allowed on the common or the open fields after harvest were exceeded, if sand or timber were removed at too rapid a pace, if the rotation of crops were not respected, the soil would be exhausted. These and similar issues were clearly often discussed at manorial courts, were subject to communally agreed solutions and

governed by traditional manorial rules. Orders reciting the rights, duties and responsibilities of tenants were frequently entered in manorial records. Thus, at Egham manor, owned by Adrian Moore, an active Surrey Justice, the following presentments were made in 1717:

> Imprimis we order all those that keep sheep in the said mannor that they keep not above three sheep to an acre of common meadow land and two sheep to an acre of arable commonfield land and Lamas land upon the penalty of six shillings and eight pence a score to the /Lord/ of the said mannor and two shillings a score to the pounder thereof and also that if any man sow any grass seed in the common field land designing the same for his crop for the ensueing yeare that no man shall put any sheep therein after candlemas day. If any of the parishioners sheep break into the said field or meadow unknown to the owner that then they shall pay but 4d a score to the driver only ...
>
> Item we order that no person shall bait any cattle in the common field belonging to this mannor on the penalty of 12d per head for the impounder thereof without it be on their own land when they do not sow nor reap for their own crop likewise if any cows are baited in the lane leading up to Windsor and shall break into the common meadow belonging to the said mannor shall pay to the driver 12d a head. (13)

Similarly, at Great Bookham in 1739:

> The said homage do also on their said oath further present that the tenants of the said Lord of the said manor may cut down on their copyhold lands elm beech ash and oak timber for the repairs of their copyhold messuages or tenements without leave or licence. (14)

These rules were enforced by specially appointed manorial

officials, whose appointments still occurred frequently in the eighteenth century. A 'common driver' was appointed in Epsom and Horton for instance, while Biggin and Tamworth manor saw the need for a field keeper (15). Manorial customs also provided for the punishment of individuals who broke the rules. Thus George Bacon, Joseph Money and John Smith were presented in 1746 in Richmond for digging a drain in an inconvenient place (16). In Thorpe, in 1751, John Giles was presented for 'making an uncommon chimney' and creating a serious fire hazard (17). At Great Bookham in 1742, Jonathon Tyns, gent., was presented for cutting bushes (18), and in Wimbledon in 1761 Alice Beaumont and William Stone were amerced for turning asses onto the common, when asses were not commonable beasts (19).

The manorial courts, as we have seen, could take cognizance of petty crimes as well as the breaking of manorial regulation. That examples of the former are few and far between is an acknowledgment of the weakness of the leet in the eighteenth century. Nevertheless, one notes, for instance, the presentment, in 1739, of John Gardner and - Lewis for killing game on East Sheen Common (20). The presentment of common scolds, 'undersettles', and those accused of overbrewing, which feature regularly in the rolls of earlier centuries, disappeared during the Commonwealth. The law and order function of the leet, still recognised by legislation which provided as late as 1727 for the reading

of the riot act at the sessions of the manorial courts, was only regularly acknowledged in the appointment of the constable and the headborough. These officials, usually associated with parish organisation, were indeed manorial officers, at least initially. It is only as manorial courts met with decreasing regularity (and even the most active of manors rarely met more often than once a year in our period) that the appointment was removed from the leet. The transfer of this responsibility to the parish was very uneven. While most constables were not normally appointed by the manor by 1760, one may point to notable exceptions. Headley manor, for instance, was still appointing its constable in 1834 (21).

In certain places, the manor continued to play a role in the administration of the local community throughout our period. At Richmond and Wimbledon which retained a significant vitality well into the nineteenth century, the establishment of institutions such as the almshouses and the charity school devolved on the manorial court. The Richmond rolls record in 1737, the admission of discreet and substantial tenants to the two houses in the manor which were used as almshouses according to the direction of Sir William Harvey's will (22). These tenants were effectively guardians of the almshouses and the authority to nominate those poor people who might live there was vested in them (23). A similar arrangement was arrived at in the manor of

Streatham and Tooting Bec where two tenants held the poor house in trust for the poor of the parish, under the terms of the will of Gabriel Livesay (24). The involvement of the manorial court in the establishment of Wimbledon Charity School was perhaps more straightforward. As the school was to be built on the waste of the manor, a licence to enclose that part of the waste was sought by the trustees (25).

This sort of function, however, was increasingly taken over by parish vestries and more will be said about it later in this chapter. The relationship between the manor and the parish is interestingly illustrated in the rolls of those courts which still exercised their rights of communal regulation. In the manor of Richmond, for example, up to 1746, the jurors presented Ham pound, or again in 1744, 'having examined into the town pond of Richmond they do find it to be a very dangerous place unless railed at the head otherwise it will be dangerous to both man and horse' (26). In 1746, however, the usual complaint was phrased rather differently:

> Also the jurors aforesaid did on their oaths present the parish of Richmond within the manor aforesaid and the jurisdiction of this court for not repairing and cleansing the town pond there, the same being in a very bad condition and a great nusance [sic] to the whole neighbourhood (27).

The responsibility for repair in this case was squarely places onto the parish authorities and the ratepayers rather

than the manorial tenants, a distinction which had more theoretical than practical significance, since in fact most of the landed tenants would also have been ratepayers (28). It would not be too fanciful to ascribe the change in policy to the newly appointed deputy steward, Nicholas Harding, whose name first appears on the rolls in that year. Richmond was an extensive manor, held by the crown, which accounts for the elevated status of its deputy steward. Harding was an active Justice of the Peace, a frequent chairman at Quarter Sessions, Clerk of the House of Commons from 1731 to 1752 (when he was appointed joint secretary of the Treasury), a Latin scholar and the son-in-law of Sir John Pratt, the Lord Chief Justice (29). From 1748, he was also to be MP for Eye in Suffolk. He was clearly a very energetic man, and the importance of his public offices did not affect the regularity with which he attended the Surrey sessions. His attitude to office is revealed in a memorandum on additional sources of revenue for the Exchequer, which he submitted as joint secretary to the Treasury. After listing various options including a poll tax (which he discarded as probably 'too favourable to the Rich and too grevous [sic] to the poor') and a tax on pensions and offices, he added: 'And I continue in the former opinion, that the new tax should be doubled on all offices executed by Deputy' (30).

At Richmond, Harding brought his experience from the Commons and from Quarter Sessions to bear in his dealings in

the manorial court. Eighteenth-century manorial manuals held that the steward was the judge of the leet and it is noticeable that the court session which followed his appointment as deputy steward included a large number of presentments, including that of the constables Ham and Kew who had failed to appear and had not made proper returns (31). In this case, the creaking manorial court was being pressed into propping up the system of local administration. Harding was not, in fact, the only JP who was also steward. At Great Bookham, which was held by the Howards of Effingham, Sir George Ballard, who was particularly active in the Dorking and Leatherhead area, acted as steward throughout the period (32). This feature, however, is only found in the larger manors, for Justices of the Peace were in fact more likely to be lords of the manor themselves. Adrian Moore and John Manship have already been noted as lords of the manor at Milton in Egham and Biggin and Tamworth in Mitcham. Other active Surrey magistrates who were also lords of the manor include Robert Austen at Shalford Rectory (33), Thomas Budgen at West Newdigate (34), Sir Nicholas Hackett Carew at Banstead and Walton on the Hill (35), James Clarke at Molesey Matham (36), James Colebrooke at Gatton (37), John Heathfield at Crewes in Warlingham (38), John Hervey in East Betchworth (39), Sir William Joliffe at Chipstead, Purbright, Merstham and Chaldon (40), Thomas Jordan in Buckland (41), Sir More Molyneaux at Loseley, Godalming and Artington (42), Thomas

Scawen at Carshalton (43), and Abraham Tucker at Dorking and West Betchworth (44). This list is by no means exhaustive. But it is interesting to note that, as a general rule, these magistrates declined to use the power offered them, through their stewards at court leet, to bring order to their villages.

Although Nicholas Harding and George Ballard may have been untypical, their acceptance of the role of steward nevertheless helps to emphasise the survival of the manor as a unit of local administration. While there is little doubt that this survival was due to the importance of the court in the registration of title to land, it retained a place in the social organisation of rural communities in the eighteenth century. The dependent relationship of the tenant, whose family might have worked land in the same manor for generations, was symbolised by the performance of 'fealty' - the swearing of an oath of obedience - on admission to the holding. Fealty, which entailed kneeling before the steward while swearing the oath, was increasingly respited during our period. In the seventeenth century, the custom had been enforced by distraint if necessary (45). While Earl Spencer's notes on manorial customs, a summary compilation based on Surrey practice in the late eighteenth century states that 'in general fealty is respited' (46), it is worth noting that in manors such as Egham and Richmond the oath was still taken by incoming tenants at the

beginning of our period. In Egham, fealty was no longer expected of tenants by the middle of the fourth decade of the century, but at Richmond, the practice was enforced long after that. Asher Turner, admitted tenant in 1754, for instance, complied with the custom (47). Even in Richmond, however, the practice became rarer in the course of the reign of George II. But this development affected tenants differently. Fealty was more often respited for women than for men for instance, and, more importantly, tenants who were admitted by attorney rather than in person benefitted from the respite virtually every time. This mattered since it was the poorer local tenant who appeared in person and the richer non-resident tenant who acted through an attorney. Thus fealty was expected of the working smallholder but not of the non-resident or wealthier tenant.

Manorial customs also affected the transfer of property in a number of unpredictable ways, particularly since the rules which determined the chain of inheritance of the holdings varied from place to place. Thus, at Wimbledon and Battersea, descent operated through the youngest son, and if there were no male children, then through the youngest daughter. At Alfarthing, the heir was the youngest son also, but if there were no boys, the holding was divided among the daughters equally. At Byfleet, the property went to the eldest son, and, if no son survived, then to the eldest daughter (48). Thus manorial custom quite often negated the

principle of primogeniture which regulated the pattern of inheritance of the ruling classes, especially in the eighteenth century when the strict settlement was at its most prominent (49). Similarly, the fact that women could inherit copyholds challenged contemporary expectations. While these customs had relatively little bearing on the administration of the local community, the occasional appearance of women officials (herdswomen or sextonnesses, to use the terminology of local records) is less surprising once this fact becomes clear (50).

Manorial traditions were woven into village life. A common survival was the leet dinner. Once a year in many places, including Nuffield manor for instance, the steward entertained the court jurors (51). The quaint ritual attached to manorial sessions which required that new tenants should be admitted 'by the rod' or that the court cryer should summon three times the heirs of a deceased tenant, survived well into the nineteenth century.

In spite of these survivals, there is no doubt that, particularly in the administrative context, the manor had waned considerably by the eighteenth century. The Interregnum had dealt it a serious blow and the vitality of the court leet proceedings were not revived at the Restoration. Later, parliamentary enclosure, by doing away with very substantial proportions of the common fields,

extinguished the remaining reason for continued communal manorial organisation. In the meantime, infringements of the communal rules, including the fencing off of commons and wastes continued apace (52). In most parishes, the most important communal decisions were now taken in vestry meetings: before investigating these, however, two other mediaeval bequests to eighteenth century administration - the hundredal and ecclesiastical courts - will be briefly examined.

B. The hundred and the liberties

As with the manor, the purpose and origins of the hundred and its court have been rationalised by legal commentators. The hundred was theoretically deemed to be the administrative unit above the manor and its court was considered to be that to which all manorial courts within the hundred could refer (53). This explanation obscures more complex origins. S. and B. Webb tentatively suggest that when the hundred courts were merged into the Sheriff's county court, those hundred courts which had passed into private hands survived unaffected (54). Frequently, eighteenth century hundred courts could thus be merely the sole surviving court of a group of manors. Essentially, its functions were not dissimilar to manorial ones although it is not unusual for cases of small debts to be brought before the court in addition to the registration of land

transactions and the presentment of communal agricultural customs. In Surrey, the business transacted by the Godalming Hundred court included the determination of actions for debt and trespass as well as standard manorial work (55).

The hundred court, however, was a relatively rare survival in county organisation. In spite of this the area comprised in the perogative of these courts retained some significance as a territorial unit. Eighteenth-century county maps, if they show any internal boundaries at all, are much more likely to show hundredal boundaries than manorial or parish ones. County histories, even down to the ones written in this century, such as the Victoria County History series, are organised by hundreds. This is no accident, and it is clear that while the hundred was no longer important at a local level, it was still used as a unit of government by the county authorities. Thus the taxation precepts required by the Surrey Quarter Sessions are initially divided between the fourteen hundreds which formed the county. Similarly, Quarter Sessions court procedure allowed for each hundred to be represented at their meetings by a twelve man jury which expressed the complaints, denounced the crimes and explained the problems of the division to the court. By the eighteenth century, these juries were no longer very active and though their presence was expected, there is some evidence to suggest that the juries for those hundreds most remote from the town

in which the Quarter Sessions were meeting were excused attendance (56).

There is little doubt that the hundred survived the virtual disappearance of its court thanks to the increasingly important role played in the administration of the county by the chief official of the hundred, the high constable. In the course of the sixteenth century, he acquired duties relating to the control of vagrancy (which he subsequently lost) and others relating to the collecting of local rates, which gradually grew in importance. The functions of high constables, like those of other officials created or adopted by the Tudors, grew considerably between 1689 and 1835, but this development, paradoxically, led to a loss of prestige and independence for the offices concerned, as increased acountability subordinated the offices to the Justices of the Peace (57). By the eighteenth century, the high constable directed many of the activities of the petty constables; he was expected to present the roads and bridges out of repair in his hundred; he reimbursed petty constable's expenses; and he supervised the implementation of emergency Quarter Sessions orders, such as the precautions taken against the spreading of the cattle plague epidemic of 1749-50 (58). In most counties including Surrey, high constables were expected to attend Quarter Sessions, which, for the high constables of the more peripheral hundreds, could entail much travelling and loss of time -

which was often resented. The high constables were, in theory at least, not remunerated.

High constables were selected by the bench at Quarter Sessions, often upon the recommendation of the outgoing officer. In Surrey, they were not relieved of their office until they had rendered their accounts to the county treasurer. In certain counties, high constables were selected for life, but in Surrey the official minimum period of office was two years (59). A few individuals served for much longer than this: in the Hundred of Brixton, for instance, Thomas Bevois served from 1731 to 1738, John Dagwell from 1741 to 1745, and William Johnson from 1742 to 1760, while most of the others stayed for four sessions, that is to say for one year only (60). Each Surrey hundred had two high constables, and each of them was responsible for a number of parishes within the hundred. Certain hundreds had rigid nomination procedures: the parishes of Cobham, Esher and Stoke in Elmbridge Hundred supplied high constables in strict rotation, and when, in 1738, the retiring officer nominated a successor, out of turn, from Cobham parish, a memorial of complaint was sent to Justice Onslow (61).

The liberties were autonomous units within the county, which nevertheless fulfilled functions very similar to those of the hundreds. An important distinguishing feature of the

liberties was their right to internal self-government. This was particularly evident with those liberties which had obtained rights of sanctuary. Such rights were extended to fugitive debtors and criminals who swore to obey the rules of the liberty and to stay within its bounds. The most famous Surrey liberty is probably the Mint where immunity from prosecution was offered to debtors until an act was passed in 1724 to abolish the immunity. The act was passed after the Surrey Justices had exerted quite considerable pressure to end what they considered to be an encroachment upon their jurisdiction and a source of disruption to ordered society (62).

The liberties, like the hundreds, had to send a jury to Quarter Sessions although provision was made for smaller liberties to send fewer jurors (63). Most liberties owed their existence to mediaeval administrative accidents. They may have originated as a consequence of a grant to a particular baron or to a bishop, as in the case of St Peter's in York, the area around the Minster. The intertwining of secular and religious administration, which has already been alluded to, is again noticeable in the context of the church courts, another mediaeval bequest transformed by seventeenth and eighteenth century practice.

C. The court of the Archdeacon of Surrey

By the eighteenth century, archdeaconry courts and their parallel commissary courts were at their most evident in two contexts: the licensing of marriages and the granting of probate. These functions need not detain us very long, important though they were to individuals. Licences were proportionately rarely issued as the vast majority of people were married by banns, while the proving of wills before the court still affected a substantial number of people. In 1728, the Archdeaconry and Commissary courts of Surrey granted some 168 probates, while in 1759, the corresponding figure was 58 (64). Only the 'middling' sort of people were affected by this process, for the very poor did not usually bother to make wills and those who owned property in more than one county had their wills proved in the Prerogative Court of Canterbury. As, to some extent, the status of the testators was confirmed by the court in which their wills were proved, it became increasingly fashionable for executors, even in such cases where such procedure was not warranted, to apply for probate at the P.C.C., a development which explains the drop in the number of wills proved before local courts.

In the context of this thesis, however, it is the vestiges of judicial and administrative procedure of

archdeaconry courts which are of significance. In the reign of Elizabeth, local ecclesiastical courts, then probably at their height (65), in addition to directing the clergy and supervising the maintenance of ecclesiastical buildings, investigated and punished breaches of the unwritten moral code. Thus Sunday work, adultery or blasphemy are frequently recorded in the archdeaconry act books, particularly before the Restoration. The church courts weakened then, partly, it is felt, because of the 'abolition of the oath ex-officio in 1662 and the passing of the Toleration Act in 1689' (66). In spite of this, the eighteenth-century Surrey archdeaconry and commissary courts still retained some administrative significance (67).

The court was still attempting to enforce the payment of various dues and fees traditionally levied by the church: tithes, burial fees, church rates. In Lamb v. Symmons in 1746, for instance, Christopher Symmons was prosecuted for not paying burial dues and tithes owing to Lamb, which in Chipstead were paid on milk and cows as well as the more customary cereal and fruit (68). In 1748, the court took cognizance of 'a cause or business of substitution of a rate or rates made for and towards the repairs of the parish church of Kingston upon Thames in the county of Surry and in the Diocese of Winchester promoted by Nicholas Cheeseman and Joseph Ryley Churchwardens of the parish of Kingston upon Thames against Paul Ryley of Hamptom Wick' (69). A similar

'subtraction' of tithes is recorded in 1752 (70).

The courts were still very much concerned with the improvement of churches. The building of an organ at Ewell, the recasting of the peel at Kingston, the introduction of a new gallery at Leatherhead, the removal of the spire at Wonersh are all recorded in the span of a few years (71). It is important to note, however, that the court would only grant the faculty for each repair or alteration once a copy of the relevant order in vestry was received. This was necessary because most of these decisions had financial implications. Thus in the case of the organ at Ewell, the vestry agreed to it on condition that its maintenance should not be paid out of the rates but by voluntary subscription (72).

Parish appointments were often confirmed before the court. The appointment of new vestry clerks at Ockham, Esher and Epsom (73), of a sextoness at St George Southwark (74) and of Gideon Fournier as a teacher of grammar (75) are just a handful of such confirmations. Disputes about the election of churchwardens were also brought to the court, as in a case at Kew Green in 1743 or at St Olave's in 1763 (76), but it is noticeable that in the latter instance, the case was constantly adjourned. Churchwardens, through whom most of the parish business was brought to the attention of the court, seem to have been a regular source of trouble also. In 1742, a brawl in the church of Bermondsey involved

Gilbert Heath and William Johnson, a churchwarden there (77). The protagonists of another brawl, this time in Wandsworth church, which arose on the pulling down of a partition between the pews, were the Rev. Thomas Cawley and James Crispe, churchwarden (78).

If the Toleration Act in some part explains the weakening of the church courts in the eighteenth century, it seems likely that, as with the manorial courts, the lack of an effective procedure to procure redress of victims' griefs and punishment of culprits may also have played a very significant role in the decline of the courts. For although the courts could excommunicate sinners or require them to do penance, the enforcement of such punishments in cases where the ruling of the court was not taken seriously, depended on the support of the civil courts, and this, by our period, was no longer forthcoming. W.A. Pemberton, speaking of the Buckinghamshire archdeaconry court, explains this development clearly:

> First there was the temper of the age, which, conceding toleration as an ideal, no longer countenanced the effective realisation of any close connection between Church and State. Civil power no longer depended upon a religious basis for its existence, and was reluctant to complete the censures of the Church issuing writs 'de excommunicato capiendo'. (79)

As a consequence, the court 'imposed only those penalties which it believed would be carried out' (80). An interesting

corollary of this policy was that, in Surrey as in Buckinghamshire, very few penances were imposed on male offenders, and the most severe were reserved for older women. Thus in Lees v. Craft, which came up before the Surrey court in 1746, the defendant, a widow, was expected to perform public penance:

> ... on which day the proctors on each side consented to time and place. Then smith gave an affirmative issue to the libel and the judge thereupon at Pattins petition injoined Mary Craft otherwise Crafts widow to perform penance in the parish church of St George Southwarke in the county of Surry on Sunday fortnight to wit the twentieth day of July next & to certify the same by the first day of next term. (81)

In addition, she was required to pay £4 6 shillings costs. Two years later, in the cause of defamation between Elizabeth Eyre and Sarah Blake, both of St Saviour, the penance was to be performed in private in the church vestry (82). The severest penance - performed in a white sheet on Sunday - was reserved for serious moral offences. Thus, in 1739, Sarah Shepherd of Ewell was so punished for fornication (83). The male correspondent was not presented. Although excommunications were commonly pronounced, absolutions were rarely sought. One singular exception was the case of Charles Rodd, a witness at a clandestine marriage, who petitioned to be forgiven (84).

Given this weakness of the court, it is perhaps not

surprising to find that its most significant work in personal causes arose in connexion with marital relations. For the court could either attempt to effect reconciliations or give formal sanction to separations. Thus in Turner v. Turner in 1748, Matthew Turner was admonished to treat his wife Mary 'with marital affection', while she agreed to go home on the day following the hearing (85). In the same year, conversely, Joseph Hemming's cruelty towards his wife Eleanor was condemned and the separation agreed (86). It may be suggested that it is because of this important role played by the church court that women continued to take its proceedings more seriously than men: apart from prosecutions for assaults, civil courts offered little help (87).

The purpose of this diversion from the theme of local administration is to show how the church courts, even at their weakest, represented another layer of government of which many people were aware. It is not suggested, however, that these courts any longer played a central role in the organisation of local communities. This role had been appropriated by the parish vestries.

II Local administration in the eighteenth century: the parish

A. Origins and functions

If some importance can still be claimed for manorial, hundredal and archidiaconal organisation in the lives of ordinary people in the eighteenth century, there can be no doubt that the parish was clearly regarded as a more significant unit of administration: poor law legislation, in particular, not only ensured the survival of the parish well into the nineteenth century but indeed helped to promote the development of sophisticated forms of management in our period.

Although the parish, originally an ecclesiastical organisation, developed before the Norman conquest, it was only around 1200 that parish boundaries were settled (88). But if the purpose of the parish was ecclesiastical, the impetus for the development of mediaeval parish organisation owed much to the manorial lords and tenants who built the church - a focus of communal life. Thus it was not uncommon for a parish to be coterminous with a manor. In theory, therefore (and English local administration would have been very much simpler to describe if it had been the case in fact), the model of one village in one parish in one manor wholly within one county was a possibility. In practice, of

course, this rarely happened. Thus, St Nicholas Deptford straddled the boundary of Surrey and Kent (89); many parishes included several manors; several manors covered various parishes (90); and some parishes comprised separate settlements or hamlets, with differing interests and requirements. The division of Bermondsey, for instance, into the landside and the waterside did not benefit the parishioners equally (91).

Like that of many other counties, the parish map of Surrey is a puzzle of anomalies and historical accidents. Further inconsistencies were introduced by the existence of small enclaves which did not belong to any parish - the 'extra-parochial' places - which complicated the life of poor law officials and, later, of census enumerators. An example of this eccentricity is the extra-parochial territory of Waverley, which owed its existence to the foundation of Waverley abbey.

Furthermore, whilst most parishes had acquired fixed boundaries by the mediaeval period, new parishes were still being created in the eighteenth century, a development which had become particularly necessary in the crowded urban areas in and around London (92). A Surrey example typical of this process is the creation in 1733 of the parish of St John Southwark, mostly out of St Olave (93). Indeed, even in old parishes, boundary disputes, despite the ritual walking of

the bounds or 'processioning' often mentioned in parish accounts, could still occur: in 1735, the parishes of Mitcham and Beddington went to law over the issue, and this is by no means an isolated example (94).

Created for ecclesiastical purposes, parishes acquired their civil functions only gradually (95). By the eighteenth century, the parish had four main administrative functions: the upkeep of certain bridges and roads, the relief of the poor, the collection of local taxes and the maintenance of law and order.

Until the sixteenth century, the upkeep of bridges and roads was not provided for by legislation and was assured by boroughs, individuals, charitable institutions, monasteries or bequests (96). The only official remedy, in cases of neglect, was to lodge a complaint before the manorial court, which, as we have seen, had little power. Tudor legislation transferred this responsibility from the manor to the parish. The famous Statute of Bridges of 1531 set down the duties of parishes for the provision of money towards the upkeep of bridges although it did not abolish the responsibility of charitable institutions where these already existed. For the upkeep of roads, the statute of 1555 established the principle that parishioners should, according to their means and the extent of ownership of land within the parish, work or send workers and carts for up to

four days a year on the parish roads (97). Parish authorities were still struggling to make these laws work two centuries later, in the face of growing problems. By the eighteenth century, especially in parishes which had to maintain heavily used roads, the statutory four days' imposition no longer sufficed and parishes tended increasingly to resort to paid road menders.

As with roads and bridges, the statutes which governed the relief of the poor in the eighteenth century originated in the sixteenth. These placed the parish at the centre of poor relief, a system which remained almost unchanged until the Poor Law Union replaced the parish as the basic unit of relief in 1834. The 1776 parliamentary returns show that Surrey had 68 workhouses capable of accommodating 4,770 persons; in addition, 30,870 parishioners and 6,895 outsiders were in receipt of outdoor relief - an indication of the size of the problem, and that in a county where, according to Stevenson who was writing in 1813:

> Before the great scarcity and consequent dearness of provisions, which took place in 1799-1800, the spirit of the peasantry in many part of Surrey was so high and independent, that they considered it a disgrace to be supported by the poor-rates. (98)

Each parish was responsible for its own poor: it had to look after its sick, invalid, mad and unemployed parishioners. Thus, for nearly three centuries, it became almost a matter

of course for the parish authorities to seek to disavow needy cases in order to keep the rates low.

The parish collected two sorts of rates, those levied for its own needs (poor relief, roads and bridges, a few salaries) and those precepted by the court of Quarter Sessions for county needs (prisons, soldiers' and sailors' pensions, county bridges, the transportation of convicted felons, various rewards). Provision was made for appeal against rate assessments at Quarter Sessions.

Law and order, the quelling of fights, the apprehending of suspected criminals and the moving on of vagabonds were understood to be the harassed constable's work, although each parishioner was responsible for some detection work and for the misbehaviour of his neighbours. Thus the notion of corporate responsibility, which has already been described in connexion with the view of frankpledge, continued as a means of ordering local communitites.

The provision of these services will be more comprehensively examined in later chapters, in the context of county administration. At this stage, only the process of decision-making at parish level will be investigated, and, in particular, the work of the vestries.

B. The constitution of the vestries

The vestry meeting, already in existence by the end of the fourteenth century to supervise church affairs and notably to authorise the levying of the church rate, has been seen as 'the natural successor' to the manorial and hundredal courts which were decaying by the sixteenth century (99). Certainly, that decay coincided with the introduction to poor law and highway legislation by the Tudors who preferred the parish to the manor as the unit of local administration. In making this choice, the government was continuing the practice of adapting existing institutions to new purposes. Elizabethan legislation, while imposing various duties on parish officers - especially the churchwardens - usually left it to the localities to determine the detail of implementation. This accounts, at least in part, for the very varied constitutions of parish meetings. For if it is extremely common to find vestries meeting on Easter Monday or Tuesday to appoint their churchwardens, the rest of that body's activities, the regularity of its meetings, the size of its assembly, the scope of the business discussed at meetings varied from parish to parish. The distinction usually drawn is that between open and select vestries, that is, between vestries open to all rate-payers and vestries whose membership was restricted to a narrower group of people.

The practice in Surrey was for vestries to be open. In his work on Richmond, Charles Burt suggested that the select vestry of that parish was unusual for the area (100). Indeed, the minutes of twenty-two Surrey vestries were examined for our period and, of these, twenty were open (though some appointed executive committees with extensive remits) and the remaining two, Richmond and St Saviour Southwark, though select at the beginning of the eighteenth century, were to see their organisation alter quite substantially.

In the seventeenth century, the distinction between an open and a select vestry, though important constitutionally, did not have much practical impact, especially in rural parishes. It was frequently the case that the vestrymen of an open vestry were a handful of regulars who conducted the parish business with relatively little consultation with the other inhabitants of the parish. Proceedings at such vestries differed little from that of select vestries. Conversely, formally select vestries might operate on a more open basis than might be expected. A good example of such a vestry in that of Richmond. Established as a close vestry in 1614 by a faculty issued by the bishop of Winchester, the parish oligarchy at Richmond went on meeting as an open vestry discussing a wide number of issues, leaving to the 'gentlemen of the vestry' the executive administration of church and rate assessments (101).

The notion of select vestries was not challenged by parliament until 1693 when a first bill for the 'better government and regulating of vestries' - which is believed to have close vestry reorganisation as its purpose - was brought before the Commons (102). This attempt at legislative reform failed, and so did subsequent ones in 1710, 1716 and 1742; but the regularity and fierceness of the debate at the time is an indication of the strength of feeling against the close vestries. Daniel Defoe's exposure of select vestry corruption is typical of the movement which gathered momentum in the first half of the eighteenth century (103). Although parliament failed to promote reform from the centre, a number of Surrey vestries were drastically affected by the wind of change and the increasingly strongly held belief that ratepayers had a right to control the expenditures of the money which they contributed towards the running of the parish institutions.

Eighteenth-century developments at Richmond, already mentioned here, have been carefully monitored by S. and B. Webb:

> From 1717 onwards we see the open meeting of parishioners more and more asserting its supremacy. By its command a workhouse is built and a separate workhouse committee is elected. The election of Churchwardens takes place by a regular poll of the parish. The meeting arranges with the complacent Justices that no accounts of parish officers are to be allowed unless they have first been audited by a committee elected by the inhabitants, "who conceive that, as subjects of

> the Crown of Great Britain, they have a native right to look into the accounts of the disposal of all such monies as are levied on them" ... (104)

The gradual shift towards a more open and harmonious organisation of parish business, which the Webbs described in the Surrey parishes of Mitcham and Tooting as well as Richmond, is chronicled in other vestries in the county. In the small parish of Petersham, the election in 1733 of George Story as minister was delayed as on the first meeting 'there being only six persons present it is agreed that be not conclusive but that it be further adjourn'd to this day sevnight' (105).

The vestries are also often seen to stand their ground against socially superior parishioners. In Walton, the vestry refused to agree to maintain the church bells which had been paid for by John Palmer, lord of the manor and an active Justice of the Peace:

> John Palmer Esq. haveing without the knowledge or concent [sic] of ye parish sett up chimes in the steeple and it being proposed that ye parisners [sic] should maintain ye sd chimes it is agreed by ye said parisners at the sd vestry that ye chimes ought not to maintained by them. (106)

In the course of the century, Walton, like Egham and a number of other parishes along the Thames attracted wealthy Londoners who had elegant houses built in the area and thus became ratepayers in these parishes. Perhaps because of

this, the established vestrymen were anxious to assert their independence. Thus in 1756, Walton vestry again refused to accede to Lady Middlesex's wish to put up a monument in the church, as 'we judge that we cannot in justice to our selves or posterity agree to the erecting of it' (107) since it was felt that the proposed structure would take up too much space and necessitate the removal of some pews. Thirty seven people signed or marked the minute book on that occasion: the decision was thus clearly a communal one, and not the imposition of a small clique. Similarly, when Weybridge vestry realised, after a proper audit in 1735, that the Reverend Smith, rector of the parish was in arrears for nine poor rates, they decided without further ado to take the sum out of the tithes due to him at Oatlands (108), hardly the reaction of an intimidated group.

A more frequent bone of contention between vestries and their incumbents related to the appointment of the churchwardens. A common tradition, sanctioned by the canons of the church, held that of the two churchwardens usually elected annually at the Easter vestry, one should be appointed by the rector and the other by the parishioners. This custom was in fact adhered to in a number of Surrey parishes including for instance Woking and Weybridge (109). It was, however, no more than a custom and parishes which had different traditions jealously guarded the right to appoint both wardens. Where the rector tried to alter the practice,

the outcome was likely to be an uproar. Thus at Clapham at the beginning of the century:

> Mr Savill rector did acquaint the vestry that he did insist (since there were such differences arisen about choosing churchwardens) to have the nameing of one according to the cannons of the church relateing to the choosing churchwardens [sic] which were read to them and Mr Savill name Mr Hewer to be one of the two churchwardens to be chosen for the ensueing yeare. The debate upon this head held very long and with much heat being urged by some ye cannon relateing to the church signified nothing to them and that the common law was before and above them, and that would quickly be decided when it came in its proper place, and upon this occasion great reflections was cast upon Mr Savill & the cannons of ye church in generall, urging their signifying very little or nothing or something to that effect occasioning such heats and warmth in words betweene Mr Burrows, Mr Mayerer, Mr Rodburn, Mr Crispe & Mr Dematree and calling him such names as are not fitt to be used between neighbour and neighbour or here to be mentioned ... (110)

Although a compromise was reached on this occasion, the affair caused sufficient disturbance for the following order to be entered in the book some three years later:

> Clapham: whereas by antient customes the parishioners have anually at Easter (being in their vestry assembeled[)] elected their churchwardens by majority of electors holding their hands & this custome hath so continued from time whereof ye memory of man is not to the contrary & untill ye 21st Aprill 1701 that at a vestry then held for choosing of parish officers Mr John Savill rector of ye parish church by pretence of a cannon [acquired] to himself the sole power of choosing one of the xchwardens & accordingly did then choose Wm Hewer to be one of the xchwardens for that yeare, altho´ hee the said Mr Hewer had even but two years before been elected by the said parishioners & executed that

> troublesome office That the parishioners do looke upon this proceeding of the rector to be a violation of their said ancient custome ... (111)

A similar incident occured in Walton in 1760:

> Whereas we the parishners inhabitants of the parish of Walton upon Thames in the county of Surrey did according to anual [sic] custom on Tuesday in Easter week last past meet in the vestry room pursuant to publick notice properly given the Sunday before, and did then and there in the most publick and regular maner [sic] choose two churchwardens for the year ensuing, to wit, William Weland and John Vamer, both parishners and inhabitants, and whereas the Revd Simon Hughes vicar did then by his curate read a letter in the publick vestry a right to nomminate and appoint one churchwarden yearly and in consequence of that pretended right did nominate and apoint [sic] Mr Joseph Remnant to that office contrary to the rights and antient custom of this parish for the space of one hundred & twenty years past, as appears by the vestry book ... (112)

The existing churchwardens were then ordered to fight this appointment at law. This latter order, endorsed by 55 signatures and marks, is a testimony to the belief in the appropriateness of the established procedure and a proof of the essential cohesiveness of parish feeling.

If the eighteenth century Surrey vestries were up to countering specific challenges to the established order or to refusing to bow to pressure from lords of the manor or local incumbents, it was a more difficult matter to alter a situation which, though clearly perceived as illegal, was long established. In this context, the 'parish revolution'

of St Saviour Southwark is of particular interest.

The status of the vestry at St Saviour, most unusually, was established by act of parliament (113). When St Margaret and St Mary Magdalen Southwark were united in 1540, the legislation which provided for the union also established an open vestry. In 1556, however, a group of parishioners appropriated the parish funds and formed a close vestry. This situation was confirmed at the Restoration, in spite of attempts at reverting to the statutory position (114). First intimations of difficulties are referred to in a vestry minute of 8 April 1730, when the old select vestrymen sought to defend their position at law:

> Whereas certaine of the inhabitants of this parish (not vestrymen) did on the second day of March last assume to themselves a right of choosing churchwardens of this parish in opposition to the antient way of choosing by this Vestry and did accordingly return the names of six persons so by them sworn & have entered a caveat against ye six churchwardens who were on the said second day of March duly chosen by this vestry, now it is unanimously ordered that the churchwardens chosen by this vestry on the said second day of March last be & they are hereby impowered to take such methods as they shall think proper in order to establish the choice made by this vestry & to oppose the other & for what charges & expences they shall be at in or about maintaining or defending this vestrys right to ye choice of churchwardens they shall be indempnified by this vestry & the said churchwardens likewise to appoint such attorney or attorneys & from time to time to call to their assistance such of the vestry as they shall think fitt and & discharge & lay out such sume or sumes of money as they shall think it proper on this occasion. (115)

In spite of this unauspicious beginning, the dispute was settled out of court and in favour of the usurpers who were attempting to break the hold of the select vestrymen over parish government. An explanation for such surprising outcome may be found in the conciliating attitude of the new wardens and, possibly, in Justice Lade's attitude to the whole affair. Lade, who in addition to having been an MP for Southwark, an active JP, a chairman of Surrey Quarter Sessions and a very influential individual in the area, was himself one of the select vestrymen. His role in settling the argument is hinted at in the following letter addressed to him by the new wardens:

> Upon considering what pass'd this morning at the conference in the vestry room we are very sorry to observe that the gentlemen of the select vestry do still continue resolved to detaine the parish effects and books and yet at the same time desire us to pay the college or any other poor it is impossible for us to know what the parish estates and revenues are or to whom and in what proporcions the same ought to be distributed without haveing the necessary helps to informe and guide us nor can it be thought reasonable for us to advance any money without being possessed of anything to secure the repayment as to any informacion that may be hinted by was of discourse of coals or other charity's that ought to be provided and disposed of the reasons above mencioned effectually prevent us from intermedling in such sort of matters. The consent you are please to give that we shall be permitted to look over some of the parish books or accounts at your house is a favour that will be of no service to us, we conceive, Sir, it is our right to demand the imediate [sic] possession thereof and that any concessions of this kind might be thought inconsistant [sic] with the dignity of the whole parish whose right we are now contending for. Your witholding [sic] the deeds and estates which have been given for the support of the college and some

> other poor can be of no availment to the gentlemen of the Select Vestry in their dispute with the parish nor can it produce any other effect then [sic] distress if not destroy those antient people, who in this stage in life should have no difficulty's laid upon them ... (116)

A closer look at the personalities involved as churchwardens reveals that both the wardens chosen by the select vestry and their challengers included Justices and well respected local tradesmen among their numbers. In addition to John Lade, the select vestry included Thomas Inwen, an active Justice in the county and Member of Parliament. The other group included Thomas Engeir, a very active Justice of the Peace, who, in addition to helping reform the Southwark vestry was one of the few JPs in Surrey to attempt to implement systematically the legislation against gin drinking (117). The participation of justices in vestry matters, normally a relatively unusual occurence, should be noted; one recalls also that the final breaking of the select vestry at Richmond was similarly led by an active local magistrate, Charles Selwyn.

The following few months in Southwark witnessed a succession of constitutional reforms. First the parish finances were properly audited; then, in April 1731, it was agreed that churchwardens should not be allowed to serve for more than two years running; the day of election was also moved to take place on the traditional Easter Tuesday. Under

the previous regime, the elections were held on 2nd March. Gradually, the old select vestrymen started attending the new vestry meetings and contributing to the running of the parish. It is a mark of the consensus about the opening of the vestries in the first half of the eighteenth century that in the case of St Saviour's, while an attempt at unsettling the select vestry at the Restoration failed dismally, a similar move in 1730 met with rather weak opposition. It may be that the social status of the new wardens and their ability to use legal processes if necessary made it more difficult to counterattack. Fundamentally, however, the new attitude to the role of the vestry made the issue one of principle against which established custom stood little chance.

While it is clear that the typical Surrey vestry in the reign of George II was an open one, various factors determined precisely how open it really was. The first of these was the regulation of the franchise. It was generally accepted, at least in the settled rural communities of the Home Counties that only ratepayers could vote at meetings. There is every indication that this rule applied to the Surrey vestries. Thus when the dispute arose in Clapham about the nomination of the churchwardens, the vestry clerk noted: 'but before they went to a choice there arose a question whether all that were there present were qualified to vote for the choosing of officers ... ' (118). In fact,

of the 59 attenders, four were objected to, but of these, three contributed to both the church and the poor rate and the objections were overruled in their case. Since cottagers were not usually assessed to the rates most vestries excluded labourers; this inference is supported by the fact that the vast majority of vestry attenders were able to sign their names. Thus when Walton vestry refused to maintain the chimes bought by John Palmer, seventeen people endorsed the order, fifteen by signing and two by marking the book. Similarly, when Weybridge vestry agreed to a rate for the repair of the steeple in 1732, 17 people signed the book (119).

A second important factor which contributed to the openness or otherwise of the vestry was the regularity of the meetings and the amount of delegation of power to officers on the one hand and to executive committees of vestrymen on the other. A very wide range of practices may be observed among our twenty-two vestries. Apart from the Easter Monday or Tuesday meeting which appears universal for Surrey parishes, substantial variations occur: at Leatherhead, for instance, meetings were virtually monthly for the greater part of the reign of George II and the business discussed concerned mostly poor law matters (120), while at Petersham, meetings probably averaged three a year over the same period. Barnes, with roughly four annual meetings, was fairly typical (121). It should be added,

however, that in most of the cases investigated here, the possibility of calling a vestry at any time of the year was always available, provided due notice were given and published in church. In the cases of both Petersham and Barnes, examples can be found of meetings called within a few days of one of the roughly three- or four-monthly meetings normally held. Thus at Petersham, the meeting held on 29 April 1733 to elect the minister was followed by another on 20 May to decide on the granting of a settlement certificate to John Huddlestone his wife and three children. Similarly, when the Weybridge vestry was considering prosecuting an indictment at the Assizes, it met three times in the course of March 1730 (122).

While most vestries were clearly quite flexible in their organisation it remains true that a number of executive decisions had to be taken by officers or standing committees of parishioners between full vestry meetings. Indeed, the ability to delegate powers to selected committees is, for the Webbs, the first sign of an efficient democratic organisation (123). In parishes like Leatherhead at the beginning of our period, the powers delegated to the parish officers were minimal and there did not appear to be any parish committee: the vestry met so often that it was usually possible for the events necessitating communal action to be brought to the attention of the assembled vestrymen. The detail of these minute books show the

painstaking process of decision-making: but the demands of such a system on the parishioners were substantial. Attendance at meetings was small: in 1749, the vestry finally nominated a committee to oversee the setting up and the running of a workhouse for the parish. From then on meetings at Leatherhead became less regular and the vestry was no longer concerned with small items of expenditure on poor parishioners (124). While no other parish in the sample examined here displayed as dramatic a change in policy as at Leatherhead, the practice of delegating specific problems or issues to committees of vestrymen became increasingly common. Thus, at Weybridge, the assessment of the rate was entrusted to a group of nine inhabitants who were to report to the whole vestry, a system already noted at Richmond (125).

Although the committees played a very significant role in the administration of the eighteenth century parish, the most important single factor in the opening up of the parish government came into play as increasingly coherent vestries sought to bring parish officers under their supervision. The acknowledgement by the churchwardens in particular of their accountability to the vestry meeting is at the root of several of the disputes over their nominations found in the records here: the 'revolution' at Southwark had a practical and not merely a symbolic significance. What was at stake was the answerability of originally independent officers to

the communal meeting.

C. The officers and servants of the parish

From the second half of the sixteenth century up to the Poor Law reforms of the middle of the nineteenth century, the execution of most of the parish business devolved on four parish officers: the churchwarden, the overseer of the poor, the surveyor of the highways and the constable. Each of these offices, which was unpaid, was pressed on local inhabitants, who, with a few exceptions, had no choice but to accept the burden of office for a minimum of one year. Each office, however, had quite distinct origins.

By the eighteenth century, the churchwardens, who had acquired in the course of the sixteenth century many civil duties which had formerly been part of the constables' functions, were undoubtedly the most influential officers in this local hierarchy. In addition to responsibility for the maintenance of the fabric of the church and other ecclesiastical duties including the general supervision of parishioners' morals for which they were answerable to the archdeacon, the churchwardens were enabled by statute to oversee much of the poor relief work undertaken in the parish and were customarily empowered to raise church rates when necessary. It was traditional for most parishes to have two wardens, one appointed by the incumbent, the other by

the inhabitants. In practice, as we have seen, this was not always the case, and some parishes insisted on the right to appoint both. In addition, in the more populous parishes, it was not uncommon for more than two wardens to be appointed. Thus, at St Saviour, Southwark, six wardens were nominated annually by the vestry, each being answerable for a specific function. The senior warden was responsible for 'the great account', and the other five respectively for 'the general poor', for 'the college' (a parish almshouse), for the bells, for 'Mrs Newcomens' gift' and finally for 'Youngs' and other smaller bequests. The importance of the wardens in terms of the civil administration of the parish is evident from the fact that in this case their responsibilities were defined in terms for heads of expenditure. In the nineteenth century this point was perhaps even more tellingly made by the fact that some vestries elected nonconformists as their wardens.

The surveyors of the highways and the overseers of the poor owed the creation of their offices to Tudor legislation of 1555 and 1597. By law, they were appointed by two Justices of the Peace and not by the parishioners assembled in vestry. In practice, names were put forward by the vestries, often without even referring the choice to the local magistrates (126). Of the twenty two parishes investigated here, only Leatherhead formally acknowledged the role of the Justices of the Peace in these proceedings:

> At a vestry then holden there was then nominated to be proposed to the justices of the Peace to be surveyors of the High Ways for the year ensuing ... (127)

Both the surveyors and the overseers, whose functions are implied in the title of their office, acted in concert with the churchwardens, or rather under the supervision of the churchwardens. For if it is true that in small parishes such as Petersham, the churchwarden was also the overseer of the poor, the more common arrangement was for the churchwardens to take over the general direction of poor relief, and the overseers to actually distribute relief, investigate needy cases and see to the maintenance of the parish poor house. The relative responsibility of each office is implied in the rule, commonly found in large parishes, which required churchwardens to have been overseers previously. As with the churchwardens, two overseers were commonly appointed in most parishes, although Southwark appointed seven, each responsible for a specific area within the parish.

The manorial antecedents of the office of constable have already been described. With the demotion of the role of the manor in local administration, the office itself lost some of its power. Gradually, responsibilities were transferred to the wardens, overseers and surveyors and, by the eighteenth century, the constable's duties related essentially to the levying of rates, the execution of various poor law duties such as the removal of paupers to

their places of settlement, the whipping of vagrants, the maintenance of law and order and the execution of various legal processes often initiated by Quarter Sessions through the High Constable. Where the leet failed to appoint its constable, the appointment, in law, passed to two Justices of the Peace. In practice, we find that in some cases names were put forward by the High Constables, who were answerable for much of the constables' work, to the bench at Quarter Sessions. In other cases, as in Barnes and Petersham, the vestry appointed the constables (128).

It is clear that in the nomination of local officers, even where unequivocal guidance was provided by the legislation, local practice took precedence and was not disputed by the Justices of the Peace. Few parishes followed the procedure laid down by the 1691 act for the appointment of highway surveyors, for instance. Under the terms of this legislation, the parishes were to furnish two justices with a list of suitable parishioners. In fact, in Walton the waywardens were chosen 'by public vote' (129). The Webbs show how this practice gradually spread to cover all the parish officers (130). Indeed, the appointments of constables, overseers and surveyors were made at vestry in Barnes, Petersham and Clapham, to take just three of our Surrey parishes.

A distinction is noticeable, however, between the

highway surveyors and constables on the one hand and the churchwardens and overseers on the other. For while the churchwardens and overseers of the poor, even in quite small parishes were yeomen or established tradesmen (and usually noted as 'Mr' in the vestry attendance lists), it was rarer for the constables to be so. This social differentiation coincided with the very significant difference in effective power attached to each office. The work of the constable was menial, that of the warden influential. Certain parishes attempted to remedy the situation. In Clapham, the relative unpopularity of the office of constable was discussed at a meeting of 1731:

> A debate arising relating to the persons proper to serve ye offices of constable and headborough. And it being objected that several gentlemen and others, who had served the offices of churchwardens overseers of the poor and surveyors of the highway and had not served the offices of constable or headborough. Ordered that a list be made out of all the oldest inhabitants of this parish who have not served the offices of constable and headborough, and that such a list be esteemed and taken to be the list out of which the constables and headboroughs shall be chosen for the future (131)

This controversy is particularly curious as it was the practice in Clapham for gentlemen elected constables in the early part of the reign of George II to appoint Thomas Radley as a substitute (132).

The acceptability of substitute officers and of 'fining

for office' (that is to say paying for exemption from office) varied from parish to parish. In principle, it was acknowledged to be a bad practice, as it restricted the pool from which the officers might be drawn, but its advantages were obvious. The Clapham vestry minutes again give a succinct explanation of the temptation which the system offered:

> And whereas there is a former order of vestry which declares that the vestry would not hereafter consent that any gentleman should fine for parish offices. But in consideration that the parish is at this time greatly in debt, and it being judged that taking fines for parish offices would be an easie way of discharging the said debt, the said former order is hereby revoked. And it is now ordered and agreed that the parish will take the summe of ten pounds as a fine for parish offices from any gentleman who is desirous to pay the same (not to exceed ten in number) which fines are to be paid to the churchwardens on or before the 11th day of December next. (133)

The system, however, did not apparently lead to gross abuse. The parish of Tooting Graveney, administered by an efficient open vestry, provides a good basis for an analysis of the pattern of appointments. Of the 206 appointments for churchwardens, overseers and highway surveyor made between 1727 and 1760, only 16 were substitutes - roughly 8%, and hardly evidence of dereliction of duty by the Tooting vestrymen, particularly when one considers that many of the 16 men who opted for the payment of a substitute, did at some other time bear the burden of office in person (134).

A closer examination of the 206 appointments shows that they fell on a group of 43 men: the members of this group were thus likely to serve in various capacities about four times in the course of their lives, although this figure disguises the public spiritedness of such individuals as John Colt, who was churchwarden four times, surveyor three times and overseer once between 1727 and 1737 or Anthony Merry, churchwarden five times and overseer and surveyor twice between 1729 and 1743.

In so far as there was a pattern to these appointments at all, it appears that most of these public careers were of relatively short duration. Thus the average period from the date of the first appointment to that of the last for each vestryman was about three years. The longest recorded career in the reign of George II was that of Edward Kempton, first appointed churchwarden in 1741 and finally asked to serve as a substitute warden in 1757. Not only did offices quite often follow each other in a short period, they were frequently cumulated. Thus it was common for the churchwardens to also be either one of the overseers or one of the surveyors at the same time. Of the 35 men who became churchwardens, 21 cumulated offices in their period of incumbency. For instance, John Man's career in Tooting spanned the period of 1731 to 1733, in the course of which he held six offices: in 1731 he was junior churchwarden and senior overseer, in 1732 he was senior churchwarden, senior

overseer and junior highway surveyor and, in 1733, senior highway surveyor. Cornelius Weaver whose public career in Tooting covered the years 1742 to 1745 was twice churchwarden, three times overseer and once surveyor for the parish in those few years. Few had as carefully graduated a commitment to public work as Francis Wilcox, who was junior overseer in 1752, junior churchwarden in 1753, senior churchwarden in 1754, senior overseer in 1755 and surveyor in 1756 and 1757.

There seems to have been an expectation that the Tooting vestrymen would serve twice in each of the offices. Only 3 out of the 35 churchwardens served more than their allotted two years (135). Whether this restriction as to the length of the churchwardens' service was designed as a safeguard against the gradual formation of a select vestry, or whether it was that the office was considered so onerous that only few individuals would accept further periods in office is not clear. Certainly the other offices, particularly that of highway surveyor, was not affected by this constraint. James Wilson was one of the surveyors without interruption from 1746 to 1754. William Ansell and William Puplett were overseers three years running from 1732 to 1734 and 1746 to 1748 respectively, although these are relatively isolated examples. The overall impression for Tooting is that, although the offices were allocated to a restricted group of people and, through the cumulation of

the offices, these individuals were in a powerful position while they were in charge, nevertheless, because of the restricted period each might serve, repeated opportunity for the manipulation of parish funds or influence was carefully controlled. Abuse of power in office would undoubtedly lead to retaliation at a later stage.

The relatively low number of substitutions, fines and claims for exemption through the use of Tyburn Tickets (136) recorded in the vestry minutes of Surrey parishes in our period (especially the rural ones), suggests that the view that parish office was shunned needs some modification. Undoubtedly, some offices were more popular than others. The fact that the constableship was the least sought after has already been mentioned and was commented on at the time (137). On the other hand, the office of churchwarden attracted a number of leading citizens. It is noticeable that the few Justices of the Peace who agreed to take on parish office were usually churchwardens, rarely constables: John Lade and Thomas Engeir have already been noted as wardens at St Saviour's; other magistrates active in parish administration include Edward Hopson, warden at Weybridge, and William Harvest at Kingston upon Thames (138). These, however, were exceptions: in parishes where active justices lived and attended vestry meetings, it was rare for them to take office and indeed unusual for them to attend regularly enough to control the decisions made at vestry. Thus if the

presence of Justice Burrows is mentioned at Clapham (139) or that of George Ballard at Leatherhead (140), this should not be seen as an attempt at taking over the parish vestries. As has already been noted, the two parishes where interference by magistrates is readily chronicled are Richmond and Southwark, where the Justices of the Peace used their influence to break the stranglehold of the select vestries on parish organisation. In this, Charles Selwyn and Thomas Engeir were carrying out in practice the proposals discussed in the House of Commons.

In both urban and rural parishes in Surrey, the typical churchwarden was a substantial tradesman or farmer. Thus at Clapham, Pelajah Hill, a warden in 1729, was a builder often entrusted by the court of Quarter Sessions with contracts for large works on county buildings such as the county gaol and the house of correction at Southwark (141). At Capel, members of the Bax family, a long-lived line of yeomen, regularly provided the parish with its officers (142). Indeed, in the smaller parishes, the fact that senior parish offices could be allocated only to the wealthier parishioners led to a virtual monopoly by three or four important families in the locality. In Bramley parish officers were often drawn from the Sparkes and the Street families, while in Woking, the Vincent, Lee and Collyer families are often represented in the list of officers (143). It is worth noting at this stage that the control of

small rural vestries by a narrow group of wealthy parishioners was not described as an evil by contemporary pamphleteers, although the situation presented the officers with as much power to control parish affairs as the close vestries.

If the officers had many onerous tasks to carry out, unpaid, in their years in office, they could, nevertheless, in most parishes rely on the assistance of a number of paid officials. Indeed, the introduction of these paid parish 'servants', to use the Clapham expression, is an indication of the growth of parish business. One important official was the vestry clerk, who, in addition to taking the minutes at vestry and keeping accurate accounts was frequently involved in the writing of letters on behalf of the parish. An early Surrey example of such an appointment is that of Camberwell. On the death in 1697 of the vicar of the parish who up to then had kept the minutes, Mr Mackthorn was appointed clerk at a salary of £3 10 shillings (144). By 1721, the clerk's salary was £10 per annum; from 1716 to 1763 the Camberwell clerkship was held by the Hodsons, the son succeeding on his father's death in 1739.

A second paid official commonly found (though not in every parish) was the beadle. His status varied from parish to parish. In his account of Camberwell, Blanch commented that 'formerly' the beadle was the most important single

official (more important even than the churchwarden). There is little substance in this claim, for though the beadle was a powerful symbol of authority with his staff of office and resplendent uniform, his duties, which involved assisting the overseers in some parishes, harassing vagabonds in others and silencing noisy children in church elsewhere, were hardly of a nature to enhance the status of the office (145). In Tooting Graveney in 1772, the appointment carried with it a salary of £2 2 shillings a year, with a coat and a hat (146). In Walton, he was paid two shillings a week in 1732 (147).

The remaining paid officials ranged from servants appointed in continuation of manorial tradition - such as the field-keeper or the aleconner - to others whose appointment was proof of the growing complexity of parish government - the schoolmaster, the workhouse master. Not all these officers are found in every parish: some localities preserved the voluntary unpaid system throughout the century. Once the decision to employ officials was taken by the parish, however, the power to appoint was always retained by the vestry. Thus the investing of the vestry with control over the employment of the parish servants contributed to the strengthening of its hand against the formerly more independent churchwardens and overseers and promoted more open parish government.

In the first half of the eighteenth century, some redistribution of power away from the parish officers towards the vestry meeting is discernible in a number of Surrey parishes. This process was admittedly very uneven and there is no doubt that the churchwardens and overseers retained, of necessity, much executive power. Yet it is interesting to observe how far the vestries investigated here displayed a wish and an ability to direct the parish officers in broad policy decisions.

D. The work of the vestry

i) Ecclesiastical function

Throughout the history of the institution, the vestry retained an important ecclesiastical function. Two important processes, the election of the churchwardens at Easter and the right to levy church rates for the maintenance of the fabric of the church continued to carry much significance for both the religious and the civil organisation of the local community. For, as we have seen, the churchwarden played an important role in the lay administration of the parish and the church itself was regularly used for non-religious purposes - not least as a meeting place for the vestry (148).

It has already been suggested that it is an

oversimplification to separate the criminal and the administrative functions of Quarter Sessions: - so, with the vestry, it is to overstructure parish business to divide religious and civil administration. In fact, vestry minutes will record decisions affecting the management of the spiritual life of the village in amongst other routine memoranda. When Dr Brady suggested introducing a new version of the Psalms in Clapham early in the eighteenth century, the assent of the vestry was sandwiched in the minutes between other civil administrative orders (149). The incumbent's position was similarly ambivalent. In a number of parishes, he was accepted as the ex-officio chairman of the vestry and thus able to take cognizance of all aspects of parish decisions and direct the debate of these issues (150). In other parishes, the incumbent rarely attended the vestry meetings or might not be resident in the parish: at Tooting, in 1746 for instance, the churchwardens were required by the vestry to ask the rector to 'fix a resident curate' (151).

Further evidence of the vestry taking an interest in the spiritual welfare of the community is available in connection with the appointment of lecturers and chaplains. When, in 1716, Clapham elected a new lecturer it was agreed that he should reside in the parish. An indication of the importance of the issue is the number of attenders at the meeting: 59 people attended (of whom two were not allowed to

vote) (152). Similarly at St Saviour, Southwark, the chaplains, on election, were required to take out a bond in £500 against their being non-resident from 1724 onwards (153). It is clear that, because the appointment of the incumbent himself was not normally in the hands of the vestry, some vestries, particularly in the large urban parishes which could afford it, insisted on the right to choose and to set down conditions for the employment of chaplains. In that sense, these lecturers were parish servants also.

Furthermore, for all the discretionary power which the churchwardens had in connection with the maintenance of the fabric of the church, most decisions relating to the extention and redecoration of the churches were made at vestry. The minutes of the Kingston upon Thames vestry show a general communal concern for the refurbishment of the church. Apart from improving the steeple, the middle aisle or the communion table, even small items of expenditure such as the purchase of a new damask cloth and napkin for use during the service were discussed at vestry (154). Most vestry minutes refer to the bells: at St Saviour's one of the wardens was wholly concerned with bell money and the maintenance of the peal (155). At Clapham, the extension of the church in 1710 led to the vestry seeking counsel's opinion about how to set about obtaining the right to proceed: proof indeed that the officers could not make that

sort of decision without reference to the parish (156).

While the churchwardens retained control over decisions about the allocation of pews (an important subject as pews symbolised the position of each parishioner in the community), it is clear that the vestry in most Surrey parishes took most of the important ecclesiastical decisions. At Petersham, even the distribution of the communion money was to be disposed of by order of vestry from 1727 onwards (157). Ultimately, in both ecclesiastical and civil matters, the vestry's consent had to be sought over decisions which involved communal money. Large attendances were common at meetings which discussed the rates, both church and poor levies, an indication that, again, the parish officers were more accountable to the communal meeting than is suggested in the contemporary literature.

ii) The parish rate

The financing of local government will be examined more closely in chapter four below, and the investigation of the parish rating process here will be confined to the assessment procedure used in Surrey parishes and whether it offered the possibility of manipulation by unscrupulous vestrymen and officers.

In areas where open vestries predominated and where ratepayers were automatically vestrymen, unfair assessments could be introduced only if the vestry was not consulted or if it was not given the opportunity to criticise the proposed assessment. There is evidence that both these steps were normally taken in Surrey vestries.

Although completely new assessments were relatively rare (just as comprehensive new valuations for rating purposes today are rare), there is no doubt that much care was taken when one was done. When Weybridge vestry decided to investigate the fairness of the existing assessment the issue was put to a committee of vestrymen who were to report to the full vestry the result of their deliberations:

> It is agreed and ordered that nine of the principal inhabitants be appointed to examine into the several assessments made on the inhabitants for the relief of the poor of the said parish and to make an estimate of each in order to form a rate in equal proportion of assessment upon every and singular of the said inhabitants. Which rate of assessment they are afterwards to exhibit to a full vestry of the whole parish to be called for that purpose ... (158)

Similarly, when a new assessment was agreed for Petersham in 1757, the complete list was entered in the vestry book for all 34 ratepayers to see (159). Normally, however, the small amendments required from rate to rate as the list of ratepayers altered, were entered by the vestry clerk as the rate was compiled. Occasionally, the case of a poor

ratepayer might be discussed at vestry and the individual might be excused from payment. Appeal against assessments could be taken to Quarter Sessions, but, as we shall see, few cases occurred: grievances were settled in vestry.

If the valuation - the basis on which the rate was levied - was carefully discussed, so was the decision to levy a rate. At Barnes in 1755 for instance nine ratepayers voted for and nine against the poor rate, the curate and an additional later signature being added to the objectors. The grounds for refusal in this case was that the sum of £12 which the rate would have raised was considered excessive, £8 being deemed sufficient by the second group of ratepayers (160). The increased attendance at meetings called to discuss rates attests to the attention which vestrymen paid to the issue. At Weybridge, the usual attendance was about half a dozen parishioners for ordinary meetings; meetings to agree a rate, both a church and a poor rate, could lead to attendances of 17 in the 1730's (161).

The auditing of churchwardens', overseers' or constables' accounts, however, seem to have aroused less interest. Of the sample of vestries examined here, only Clapham appointed auditors annually. The following entry, taken from the Barnes vestry minutes is untypical:

> The overseers of the poor for the 2 years last past are desired to bring in their ac[count]ts

> this day after evening service to have them examined and finially [sic] settled by a vestry in order for their being past by the Justices at their next meeting and all parishioners are desired to attend accordingly and the officers to bring the parish books to have them lockt up in the parish chest ready for inspection by any parissuner that shall require it according to the stat[ute] in that case made and provided ... (162)

Parish account books are frequently untidy and the sums often inaccurate. Cheam rate book, which has been analysed from 1730 to 1753, exhibits many errors which were not picked up by the auditors at Petty Sessions to whom the accounts should have been shown annually (163). In fact, parish rate books were not so regularly taken to the Justices. At Elstead, for instance, the accounts appear to have been audited roughly every three years (164); the Weybridge accounts are similarly irregularly checked (165); the overseers' accounts for East Clandon are only occasionally signed by the Justices (166). Banstead and Wallington hamlet accounts, on the other hand, seem to have been taken to the magistrates more regularly (167).

It may be suggested that, at parish level, the main checks on expenditure were global, in the sense that ratepayers concentrated on limiting the total amount of the rate rather than looking at the breakdown of the past year's expenditure. Beyond that, decisions which required large sums such as the building of a workhouse for instance, would automatically be taken by the assembled vestrymen who would

take into account the financial consequences of their decisions. as far as they were concerned, the reasonableness or otherwise of a rate was tied to what was considered to be adequate communal provision for the poor on the one hand and protection for the propertied on the other.

iii) Poor relief, health and safety

The workings of the poor law will be examined later and this chapter will examine only what parish authorities deemed to be essential amenities.

The largest single building maintained by the parish was of course the church, but repairs and building work on it was provided for out of the church rate, which was voted separately. After the church, it was common for Surrey parishes to provide a house, sometimes styled a workhouse, for its poor parishioners. The individual history of these buildings is varied: as we have seen, they might have been provided by a parish benefactor, as at Chertsey, where Mrs Mary Hammond endowed an almshouse in 1645 (170), at Putney where Sir Abraham Dawes founded and endowed an institution for 'twelve poor persons in a state of celibacy' (171) or at Richmond where almshouses were built under the terms of William Hickey's will of 1727 (172). Elsewhere, however, especially after the passing of enabling legislation in 1723, a number of parishes established their

own workhouse, supervised by the overseers or a workhouse master and often a committee of ratepayers. At Lingfield a parish house was provided from 1729 (173), at Esher from 1741 (174) and at Leatherhead from 1749 (175). Other parishes, such as Tooting for a long time merely boarded out their poor among the cottagers (176). More substantial provision was made in the urban parishes, not surprisingly, and Southwark had 'parish tenements' built (and insured against fire damage) in the early years of the century (177).

Parishes were very dependent on benevolent parishioners for the endowing, building and maintenance of schools, although quite significant variations existed in the interest taken by the vestries in educational provision. In Weybridge, the vestry refused to become responsible for the maintenance of the school endowed by Mrs Elizabeth Hopton in 1732 (178), while at Clapham the vestry fought hard to establish the right to elect the schoolmaster, a practice which the trustees disputed (179). The procedure established to settle the dispute in this case is of interest as it shows both the vestrymen and the trustees in a conciliatory mood: four arbitors were to be appointed, two by each side. If the arbitors failed to agree, they should agree on an umpire; at any rate, neither side should go to court over the issue (180).

Generally, vestries felt a greater obligation to safeguard the property of their parishioners than provide help for the education of their children. The risk of fire was one of which most authorities were aware and the provision of 'engines' was common. While small parishes simply kept one, perhaps in the stable of the local public house or in the barn of a conveniently situated farm, large parishes such as Southwark needed to make better provision:

> Ordered that the churchwardens of this parish do cause the engines to be played at least once a quarter in every year, that they may be alwaies in good order ag[ains]t any accident that may happen by fire ... (181)

Dangerous hazards to village security could be pursued with vigour. The following order is recorded in the Weybridge minutes on 8 March 1730:

> Whereas great numbers of barrels of gunpowder are daily brought into this parish and deposited in a barn belonging to John Wells which has given great uneasiness to the inhabitants of the said parish from the danger of its situation and whereas they have often complained without any effect, it is therefore ordered and agreed by the said vestry that Mr Thomas Napleton one of the present churchwardens shall have the opinion of councel [sic] learned in the law ... (182)

On the strength of the advice received, the parish, after a further meeting decided to prosecute Coram & Co at assizes for the nuisance. A meeting on the 22 March notes that the proceedings were to be dropped as agreement with the firm

had been reached.

Rudimentary health precautions were gradually introduced in a number of Surrey parishes. 'Pest houses' or isolation cottages were being acquired or refurbished at Lingfield in 1751 and at Weybridge in 1758, for the use 'of poor people afflicted by any bad distemper' (183). Egham appointed a regular parish doctor from 1742 (184). In urban areas, the parish authorities developed more sophisticated measures. Not only did the Southwark vestry attempt to curb the unhygienic excesses caused by the refuse of a slaughter house, but it also forced landlords to improve their tenements. Thus, in 1718, Mrs Reading's tenants were ordered by the vestry not to pay their rent until she had repaired her property in Swan Alley (185).

In all the foregoing cases, the parish vestries had a clear perception of their duties towards the community, including those who did not contribute to the rates. Many of these responsibilities were not prescribed by statute, but rather by a sense of what was required and what had traditionally been provided. Churchwardens and overseers' accounts abound with references to miscellaneous items purchased for the parish: Tooting bought a new set of weights in 1738; Walton arranged for a clockmaker to repair and maintain the parish chimes in 1754; Clapham had a watchhouse built (186). Beyond this, most vestries saw a

further role for themselves as protectors of communal rights, indeed as the embodiement of local will. In this sphere too, the vestries took cognisance of a wide range of issues.

iv) The assertion of communal rights

The manorial origins of certain aspects of vestry organisation and concerns have already been noted. It is not surprising, therefore, to find the vestry taking over in situations where an inactive leet should have acted. Failure to comply with established agricultural customs might well be disciplined by the assembly of vestrymen. When this happened in Weybridge in 1753, compensation was sought from the offender:

> Whereas Ann Reeve of the said parish widow hath sown turneps seeds for a second crop in the common field called Parcroft whereby the inhabitants of the said parish have been deprived of the benefit of commonage of part of the said field for this year now the said Ann Reeve do hereby agree to pay to the overseers of the poor for the use of the poor ... [the sume of five shillings] (187).

At Walton, the churchwardens were ordered to seek legal advice and prosecute if necessary when, in 1728, 'divers persons (...) in a riotous manner entered on ye common belonging to this parish and dug up a considerable parcel of land therein & burnt and destroyed furse & heath not haveing any right thereto ... ' (188). Infringements by the local

gentry were also likely to be reprimanded and pressure could be brought to bear on the parish minister in cases of non-residence or in order to protect the established procedure in the appointment of churchwardens, for instance. The tradition of communal resistance to influential local parishioners is a long-standing one, as Postan has pointed out. Even in the mediaeval period, joint action is recorded: 'In their allegations of conspiracy the landlords sometimes referred to the unlawful collection of funds raised to finance their lawsuits against the lord' (189).

The parish might also act in defence of its rights against the encroachment of a neighbouring parish. Boundary disputes and the removal of paupers were probably the commonest cause of dissention between parishes, but occasionally more unusual issues were taken to court. An example of such dispute is given by Frederic Turner in his book on Egham:

> According to a terrier of 1634 there was a sum of 40 s. payable from Broomhall farm to Windlesham church, and a note is added that although the farm was in Egham parish, it paid all rates and taxes to Windlesham. This anomalous state of things went for many years, until in 1730 the Egham vestry challenged it, and the Windlesham folk decided to fight the matter out at law if necessary. (190)

The case was heard at the Abingdon assizes (an interesting example, incidentally, of the lack of concern for county boundaries); Egham lost the case and in Windlesham the bells

were rung and those who had conducted the case paid £8.

Similarly, there are many instances of vestries taking action to defend parochial rights relating to charitable trusts. The right to nominate the beneficiaries of parish charities was jealously guarded. In Egham again, a contest for the nomination of the master and almsfolk of Strode's charity developed between the Cooper's Company and the parish authorities and was taken to Chancery (191). In Southwark in 1735, the dispute about the right of presentment of poor people to Mr Cures' gift was only settled once it was agreed that the electors to the gift should themselves be elected anually at the Easter vestry (192).

Vestries also saw it as part of their work to fight developments which were seen as damaging to the wealth of the locality. Thus Southwark declared its opposition to the building of Westminster Bridge in the 1730's, and requested Sir John Lade and John Copeland to act on behalf of the parish in concert with representatives from the other parishes in the Borough hostile to the bridge (193). Similarly, the Kingston vestry petitioned the trustees of the Brentford turnpike not to put toll gates up between Teddington and Hampton Wick later in the century (194).

A few parishes even took the step of providing a parish

prosecution society. At Lingfield a voluntary society was formed in 1743. Significantly, the agreement was entered in the vestry book:

> We whose names are here under written inhabitants of the parish Lingfield in the County of Surry do enter into this amicable asiociasion [sic] and do hereby covenant agree and promise with and each other in manner and forme following that is to say if any felony be committed within the said parish upon the goods of us or any [other poore crossed out] inhabitant of the said parish that then we and every one of us will do our utmost endeavour towards apprehending the fellons and if the said fellon be committed to gaol [sic] and any person be bound to prosecute that then the whole necessary charges of such a prosecution shall be defrayed by us share and share alike. (195)

The parochial status of this association became evident in 1749, when it was unanimously agreed that 'all charges relateing to this agreement be from this time paid out of the poor book' (196).

It would be an error, however, to see vestry proceedings in the defence of parish rights as essentially adversorial. For though examples of court cases abound - especially over the removal of paupers - and though contemporary literature delighted in depicting the local vestry as particularly anxious to initiate legal proceedings over trivial issues, the frequency with which the local magistrates' advice or counsel's opinion was sought even before a decision to prosecute was taken clearly demonstrate a conciliatory spirit. The procedure adopted at Clapham over the dispute about the appointment of the schoolmaster has

already been described. So has the amicable settlement of the debate over the ending of the select vestry at St Saviour's Southwark. Examples of conciliation over smaller issues are also common. By the middle of the century legal opinion was almost routinely sought before taking out removal order against destitute families (197). Vestrymen were generally aware of the cost involved in such cases and frequently took action to prevent difficulties arising at a later stage. Newcomers might be asked for a certificate from their parish of origin to cover any period of destitution, for instance. At Mitcham, this was done systematically in the latter part of the century (198).

Broadly speaking, the outlook of Surrey parish government might be described as mostly honest, probably inefficient, cautiously pragmatic. Yet it was not untouched by the prevalent debate on corruption and accountability, although the interpretation of both these terms needs to be put in context.

III Conclusion: the concept of local accountability

The public debate over the issue of parish administration in the first half of the eighteenth century has several times been alluded to in the course of this chapter. Defoe's Parochial Tyranny: or the House-Keeper's complaint against the insupportable exactions, and partial

assessments of select vestries, &c. is possibly the best known of the host of pamphlets issued at the time which condemned closed vestries, particularly those vestries in the crowded parishes of London and the surrounding area. The two aspects of the question most carefully discussed in contemporary literature were firstly the problem of corruption and secondly the lack of accountability of the officers. For the Gentleman's Magazine of June 1742, the former was merely a consequence of the latter:

> Among nations which boast of liberty, 'tis both an inconsistency and a disgrace to connive at any species of tyranny whatever. But tho' we have most reason to be afraid of fetters from our governors, we have most reason to be ashamed of them when impos'd on us by our fellow-subjects.
>
> We have long had the honour of making a glorious stand against a corrupt and rapacious minister; but have much longer had the curse and infamy of groaning under the yoke of select vestries; those parish tyrants, who, in contempt of reason and equity, have found ways and means, both to usurp power and abuse it, in many instances, more flagrantly, tho' within a narrower sphere than the most arbitrary minister ... (199)

The Gentleman's Magazine then proceeds to describe the sorts of abuses of power commonly found in select vestries: these seemed to revolve around the cost of items supplied to the parish at unreasonable cost. The bell ropes or the flag on the steeple should have cost less than the amounts stated in accounts reproduced in the article. Defoe also noted that 'nothing is so profitable to these gentlemen as parish repairs' (200), but his main grievance was the political

manipulation of their position:

> But woe to those house keepers who disoblige the vestry gentry, who are of a different party or principle, who have or may refuse to vote in all elections national or parochial, according to their directions, these shall be saddled, with offices, fines and double taxes, as has been the case of but too many since our late elections.
>
> In most villages adjacent to London, where the gentry and tradesmen retire for health and air, they are shure to be rid to death by these parish jockeys, who know no mercy. (201)

The remedies offered by the authors of these pamphlets were on the whole rather predictable. Joseph Phipps, writing in 1739, suggested that the parish officers and vestrymen should be persons of substance, sense and character; that they should be elected by ratepayers only, and curiously, 'that the vestry-men be chose [sic] annually, as the rest of parish officers are; or at lest that one half of them be so elected, that they may be half old and half new, as it is with the managers belonging to some of our great companies' (202). Clearly, he was not opposed to the idea of excluding certain ratepayers from the vestry, merely to the idea that it should be self-elected. Defoe's suggestion was geared to reducing the power of the wardens and parish officers:

> Instead of select vestries, churchwardens, or other superfluous officers; who serve to pillage a parish, by playing into each other's hand, and keeping the rest of the parishioners in the dark; an annual election should be made of a treasurer, one of the most substantial among them, in which election every parishioner, who contributes towards the charge of the parish should have a

> vote. (...) There should likewise be a monthely [sic] or quarterly meeting of the parishioners to regulate the parish affairs, direct the distribution of the money, and settle a general rate. (203)

It would, however, be doing the early eighteenth century reformers an injustice to see their campaigns as supporting merely practical reorganisations or the introduction of a more efficient hierarchy. Engeir in St Saviour's and Selwyn in Richmond, in attacking their select vestries, acted on principle. The constitutional restriction on the number of years which a person could be a warden in St Saviour's, for instance, shows a commitment to the accountability of parish officers. As Joseph Phipps commented in his pamphlet: the parish officers 'are not officers of command, but trust; therefore accountable, and in case of abuse, liable to prosecution' (204).

The reformers of the eighteenth century vestry believed in the right and duty of the substantial residents of each parish to contribute to its management. Although the franchise was wide enough to include all ratepayers, it was not proposed that every parishioner should be entitled to vote at vestry. At the same time, undue coercion or manipulation by small cliques were not to be entertained either. A constrained, but nevertheless genuine, independence from wealthy landlords or the parish rector was to form the basis on which local communities were to be

organised.

In theory (and indeed in practice), even if the poorer parishioners were not allowed a vote, their needs were taken into account by the vestry. The defence of rights of common, the provision of poor relief were a significant acknowledgement of the ratepayers' sense of, responsibility Yet the distance between the ratepayers and the poor is instanced in a number of vestry minutes.

The vestrymen's attitude to those dependent on their rates are evident from the rules issued by vestries to regulate the behaviour of poor parishioners. The implementation of legislation which stipulated that the recipients of poor relief should wear distinguishing badges is evident from references in the minutes. In Egham, the authorities seem to have experienced some difficulties soon after the passing of the legislation in 1697 and the vestry compiled a list of 'those who will not wear the badge' (205). At Clapham too, the refusal to wear the badge led to the passing of the following order in 1729:

> Information being given that the pentioners frequently appear without badges order'd that the overseers do not for the future pay any pension to any person whatsoever unless such a person or pensioner do wear the badge of the parish in a visible place as the act of Parliament directs. (206)

Similarly, at Petersham in 1730:

> Ordered that every person that receive reliefe from this parish shall wear a badge on their right arme marked P.P. & that it be worne in such manner that it be visible to be seen. (207)

Thus it may be noted in passing that vestries which appointed officers according to conventions which flouted statute law were nevertheless well aware of the law in different contexts.

The desire of the vestrymen to control strictly the behaviour of the poor parishioners is implied in the regulations for the running of parish workhouses. At Barnes, the rules worked out in 1758 required the inmates of the parish workhouse not to swear, not to drink geneva, to attend prayers regularly and twice on Sunday; the workhouse master was further enjoined to control their diet carefully, to teach the children to read and to arrange for a bell to be rung for prayers and meals (208). At Tooting in 1760, it was ordered that the 'weekly allowances to the poor be not paid to such who attend not Divine Service the Sunday immediately preceding' (209).

In certain cases, the wish of the wealthier ratepayers, many of them employers, to control the behaviour and income of local labourers extended beyond the promulgation of rules for the very poor to attempts at interference in the supply

of work. At Farnham, one of the hop-growing centres of the county, this became explicit in 1760 when a group of thirty-seven persons, including three churchwardens and four overseers wrote to the governors of the newly established Foundling Hospital, explaining their predicament:

> That the Labour of this Parish is wholly taken up in the Culture and management of a very large plantation of hops, in which the women are particularly useful in almost all seasons of the year. That they are suffer'd to take nurse children without limitation (some having three, others four) by which they are confin'd entirely at home and contract habits of idleness, drinking and the like; add to this, that many of their husbands are led away from their industry into the same bad courses, and are tempted to live on their wives immoderate earnings.
> That from hence, we are depriv'd of the labour of our own poor, who are suffer'd to live in idleness, whilst we are oblig'd to hire others at a great expence from distant places to do their natural work. (210)

It is in this sort of context that abuse of power by the vestrymen becomes significant. Cases of outright corruption - decried at great length in the pamphlet literature - are difficult to substantiate in rural vestries. While it is true that churchwardens are often found to be the suppliers of goods and services purchased and required by the parish, the evidence, overall, shows that the prices charged were not exorbitant and that the contracts were shared among all those who were capable of supplying the service. Tooting vestry decided in 1744, for instance, that each public house in the parish should

provide the wine for the church for one year and have the vestries in turn (211). Similarly, the property in Kent owned by the parish of St Saviour was leased to the highest bidder (212). In giving preference to the tradesmen of their parish, the vestries were not acting in a manner that would have caused investigation or enquiry even today: the practice of employing local firms remains official policy in several county councils to this day.

The other charge frequently brought against vestry officers, that they enjoyed lavish feasts, seems better founded. The expenses paid to the churchwardens of Kingston upon Thames for walking the bounds of the Northern part of the parish in 1740, at £5, would appear to be generous (213), particularly in comparison with those of Camberwell parish which amounted to £1 8s 6d in 1716 (214). At Tooting in 1748, the vestry dinner held on Easter Tuesday cost 30 shillings, though the sum was paid out of the church rate rather than out of the poor rate (215). While such expenditure is difficult to justify - and clearly many contemporaries also found it so - it may be noted that the transaction of public business in the eighteenth century commonly entailed a public meal. It has been noted in connexion with the arrival of the Judges of Assizes; it was commonly provided for at Quarter Sessions and Leet meetings too. To this day, the institution of a mayor in most boroughs is celebrated by a banquet for the councillors. It

may be noted that the Assize banquet was paid for by the sheriff, the Quarter Sessions meal was funded by a magistrates' dining club, and the leet festivities were provided by the lord of the manor. Vestry meals, on the other hand, were often paid for out of the parish rates. Against this, one may offset the regular acts of generosity towards the parish of many vestrymen. At Clapham, for instance, a voluntary subscription was raised from gentlemen to extend the parish workhouse in 1737 (216); and in 1740, in the same parish:

> Robert Thornton Esqr reported that the gentlemen of this parish had by a subscription raised a summe of money wherewith they had paid of [sic] and discharged the debts due from this parish to their severall [sic] officers as the ballance [sic] of their accounts. (217)

The self-indulgence of many parish officers cannot be denied; but to suggest systematic corruption - at least in settled communities with open vestries - is to misunderstand the spirit in which public service was undertaken. One would expect more frequent outcries on the part of the ratepayers and far more heated debates to be recorded in the minutes if such expenses had been considered untoward. Thus the evidence examined here, which covered established communities, concurs with the analysis which S. and B. Webb gave for the eighteenth century:

> The records of some compact and peaceful parishes

> reveal the Parish Oligarchy imperceptably growing into an orderly and harmonious Open Vestry, the administration being carried out by the parish officers with the continuously expressed assent of the taxpayers. (218)

There is little doubt that the Surrey vestries, in spite of many faults, were capable of confident self-management by the end of our period. And if they did not necessarily abide by every statute which should have regulated their business, the vast majority of them followed a code of practice which expected all those who contributed to the rate to have some say in the management of the parish.

That is not to say, of course, that vestries were always harmoniously agreed. Disagreements about the rates, about the provision of poor relief or the seating in the church, political arguments even could divide the vestries. Witness the comment entered in the Walton minutes:

> Be it remembered that G. Betney the Jacobite refus'd to allow five shillings for the takeing [sic] the Havanah (when there was six shillings alow'd [sic] for Quebeck) a plain proofe [sic] that one may steal a horse better than [sic] another look over the hedge. (219)

In general, however, a broad consensus existed among vestrymen about the nature of their responsibilities and their function in parish management.

The breadth of the initiatives taken by the vestries

studied here cannot be denied. Vestrymen were left to their own devices when it came to formulating the parameters within which poor relief was to be administered in their parish; whether the parish should pay for a fire engine or build tenements and a workhouse. The rules of the workhouse were devised by parish committees, the regulations of the common fields too. In this, the vestry invested itself with power which was rarely curbed by the local magistracy.

This account challenges claims recently made by Norma Landau for the importance of Petty Sessions, whose growth in the seventeenth and eighteenth centuries she sees as the most important development in the structure of local government of the period. For her, not only were they a 'prime focus of judicial power', but the medium through which the magistrates 'further extended their control of local government' (220). Yet it could be argued that Petty Sessions for all their apparent regularity did not provide the continued supervision of the churchwarden, the overseer or the vestrymen whose power, in the administrative context, was far less bound by statute than that of the Justices of the Peace. The present investigation of the role of the vestry does not fit comfortably with her contention that 'through its control of (...) the machinery of parish government, petty sessions effectively monopolized the powers of rule' (221). Landau's interpretation of eighteenth-century local government, by concentrating on the

manipulation of local administration by the magistracy makes no allowance for the evident capacity of parish communities to regulate themselves. She casts the local justices as the prime movers in local administration. In fact, though it is true that the scope of petty sessions business was growing in the eighteenth century, its role was still essentially supervisory rather than initiatory. While this certainly implies a position of power of the Petty Sessions over the vestries, there is considerable doubt as to whether this power was used as systematically as she suggests. We have seen, for instance, that there was little attempt on the part of the Petty Sessions to enforce the regular auditing of parish accounts. Similarly, it is not clear that rating assessments could be used for large scale manipulation for political reasons, when these were more likely to have been determined at a parish level. The Justices of the Peace did not even enforce the law regulating the appointment of parish officers - which would have been as obvious a way of making capital out of parish politics as the manipulation of taxation assessments. The same doubts could be entertained about removal orders, which she claims to be important in the apportioning of the burden of poor relief. If the justices had tried to ensure local popularity for themselves by signing unfair or illegal orders, one would have expected a strong statistical bias in the awarding of such orders against out-of-county parishes: in fact, as we shall see in a subsequent chapter, this was not the case. In short,

Landau has taken at its face value the theoretical power vested in Petty Sessions and has not tested its extent in practice.

On three specific issues, her assessment of the situation based on Kent sources cannot provide the basis of generalisations about the work and influence of Petty Sessions elsewhere, although generalisations abound in her book. The first issue relates to the relationship between Petty Sessions and the meetings of Tax Commissioners. For Landau, 'the most impressive symbol of petty sessions' predominance in local administration was its absorption of supervision of the assessment and collection of the land and window taxes' (222). That the two should be closely is hardly surprising since many tax commissioners were also Justices of the Peace and the taxation divisions were coterminous with Petty Sessional districts. But that one particular set of Tax Commissioners' minutes in Kent should be so completely intermixed with Petty Sessions entries that all the Tax Commissioners, including those who were not justices, are listed as presiding at Petty Sessions is hardly evidence of integration of the two administrative processes but rather of poor minute taking (223). Conflicting evidence is provided by a comparison with the minute book of the Surrey Tax Commissioners for the Hundreds of Kingston and Elmbridge for land and window tax, which covers the period from 1723 to 1757 (224). Attendance at the Tax

Commissioners' meetings in Elmbridge varied between 2 and 7, the most usual number being 3, and the overlap in parsonnel between the Kingston and Elmbridge Hundred Petty Sessions and that attending the tax meeting fo the same district is not very significant.

Landau states elsewhere that Justices of the Peace found administrative decisions interesting because these decisions affected taxpayers many of whom were voters (225) and implies that the magistrates were not averse to using their administrative powers, including their powers as Tax Commissioners, to gain personal political advantage (226). An analysis of appeals against assessments in Kingston and Elmbridge, however, shows that there were clear technical criteria set down for the assessment of taxes and that appeals were upheld or not according to this mathematical formula. Appellants were asked to produce receipts for outgoing sums on rents for instance and were required to swear to the veracity of their statements (227).

The minutes of the Kingston and Elmbridge Tax Commissioners' meetings, though hastily written, are devoted purely to tax business and do not provide any evidence of enlargement of Petty Sessions work. One exception is provided by the minutes of a meeting in 1749 when Orders in Council relating to cattle distemper were read. The work of the Justices of the Peace at Petty Sessions in relation to

the rinderpest presents a second example of Landau's tendency to generalise from one source and to assume that statements of intent entered in Justices' minute book were necessarily carried out. Of the efforts of the Kent Petty Sessions in this connexion, she says:

> That plague continued to wander through Kent during the 1750's is a reflection on eighteenth century medical knowledge, not upon the machinery of Petty Sessions. (228)

In fact, John Broad, the agricultural historian, shows that in the course of the three eighteenth century outbreaks of plague of 1709-20, 1742-60 and 1768-86, the first and third epidemics were well controlled through central governmental policies and through the action of Lords Lieutenants and senior magistrates in the counties while the outbreak in the middle of the century in which central government was slow to act because of other crises such as the 1745 Rebellion, action by local magistrates was ineffectual, not because of the state of medical knowledge but because of lack of administrative co-ordination (229).

A third discrepancy between the Kent Petty Sessions model expounded by Landau and the Surrey practice relates to growth in interest in Petty Sessions work by Justices of the Peace. In Kent, Petty Sessions absorbed more administrative work from Quarter Sessions (230). This does not tally with the picture which emerges from Surrey sources - partly cited

in her bibliography - where, as we have seen in the Introduction, Petty Sessions meetings became less regular and were less well attended towards the end of the reign of George II. Administrative practice varied sufficiently from county to county in the eighteenth century to make generalisations difficult and, at this stage, local studies essential.

In Surrey in administrative matters, the role of Petty Sessions was to give formal sanction to decisions taken locally; give support to vestries which had difficulties in enforcing their decisions; punish individuals whose misdemeanours had come to their attention. Dynamic measures at a local level were far more likely to be promoted by parish authorities than by Petty Sessions. It is the growing self-confidence of the vestries which led to a more articulated form of local government in the county. (This was in fact to some extent supported by certain magistrates who helped break the stranglehold of closed vestries in Surrey.) The bench did not feel threatened by efficient open vestries; indeed magistrates would have been in broad agreement with the decisions taken at parish level. The autonomy of urban government, to which we now turn, might on the other hand have caused them more qualms.

CHAPTER TWO: Borough government

The pattern of urbanisation in Surrey was distinctive in a number of ways: it developed in specific areas of the county, it occurred slowly, and, as in a number of other agricultural counties, it was only partly related to the growth of manufacturing industry.

It is traditional, when describing urban settlement in the county, to emphasise the dichotomy between the populous London suburbs and the small centres of the rest of the county. While it is true that even at the beginning of our period the Southwark parishes accounted for a substantial part of the population of the county, analyses of the hearth tax returns of 1662-1664 reveal a more complex pattern:

> ... the influence of the capital is obvious in the large villages north of the chalk hills like Carshalton and Clapham (which compare with Eltham and Chislehurst in Kent) where there were many houses of the sort which came to be called villas in the next century; the influence of Southwark spread through the whole of East half of Brixton Hundred; and again the influence of the capital spread down the Thames Valley. But apart from these factors and the scantiness of population of villages of the eastern chalk downs, the county was well populated: Historians have, in fact, probably stressed the importance of Southwark and its environs overmuch and neglected the populous valleys of the Wey and the Mole and the large parishes of the Weald. The idea that the county had a population unduly magnified by Southwark and its environs does not agree with the fact that the deletion of Southwark from the county for the last year of the Sheriff's time did not affect Surrey's position in the order of charges among the counties. (1)

Yet only 26 Surrey settlements exceeded 400 hearths in 1664, the largest being, apart from the parishes in the Southwark area, Kingston, Guildford, Croydon, Richmond, Guildford and Farnham. Of course, the hearth tax, at best, can only give a rough idea of the population of the county, and considerable controversy has arisen about the multiplier to be used to translate hearth numbers into population figures (2). A further difficulty arises as many of the Surrey entries were either not returned or are seriously defective, a problem which affects the Southwark parishes most significantly. Bearing these inaccuracies in mind, the following table nevertheless gives some idea of the size of towns in Surrey at the beginning of our period and provides some comparison with the population figures recorded in 1801.

Larger centres of population in Surrey, 1664 and 1801.

	1664 Hearths	1664 Popn	1801 Popn
Southwark	-	-	66,638
Lambeth	3,264+	14,362	27,985
Bermondsey	2,437	10,723	17,169
Newington	1,994	8,774	14,847
Kingston	1,772+	7,797	4,438
Croydon	1,570	6,908	5,743
Richmond	1,401	6,165	4,628
Guildford	1,270+	5,588	2,634
Rotherhithe	1,253	5,513	10,296
Farnham	1,145	5,038	4,321
Putney	1,040	4,576	2,428
Wandsworth	1,002	4,409	4,445
Reigate	958	4,215	2,246
Chertsey	878	3,863	2,819
Battersea	812	3,573	3,365
Mortlake	799	3,516	1,748
Godalming	792	3,485	3,405
Camberwell	769+	3,384	7,059
Egham	730	3,212	2,190
Dorking	730	3,212	3,058
Walton on Thames	620	2,728	1,476
Mitcham	579	2,548	3,466
Woking	546	2,402	1,340
Worplesdon	415	1,826	945
Thames Ditton	414	1,822	1,288
Streatham	401	1,764	2,357
Epsom	396+	1,742	2,404

[+ denotes incomplete returns. A multiplier of 4.4 was used to estimate the 1664 population (3)]

One may thus very tentatively estimate that roughly half of the 154,000 people who were estimated by Thomas Allen to have been resident in Surrey in 1700 lived in communities of over 5,000 inhabitants (4).

It is clear that Surrey was not heavily urbanised, even

by pre-industrial criteria. No Surrey town features among the 25 largest English towns enumerated by Angus McInnes in either 1670 or 1750 (5). The slowness of the process of urbanisation in Surrey is further demonstrated by the fact that while Guildford and Farnham are shown on Christopher Chalkin's map of larger provincial towns of England and Wales in 1700, no Surrey town at all appears on the companion map of 1820 (6).

This is not to say that industrial development did not take place in Surrey. Indeed it was long established by the opening of our period. The large manufacturers of Southwark area have already been mentioned, but industry in the county also appeared in more rural settings. P. Brandon's study of the development of manufacturing industry in Tillingbourne valley describes this process in detail. Twenty-one mill sites were identified along the valley between Shalford and Dorking. Of these, nine were pre-1500 corn or fulling mills and the remaining twelve were of Tudor and Stuart creation. These developments clearly affected the pattern of settlement in the county:

> The general increase in employment, either directly in industry or in the related woodland activities, created one of the most characteristic forms of rural settlement in Surrey, the hamlet, and notably, the mill hamlet. (7)

The separate development of industry in rural Surrey

may explain the tardy growth of extensive urban settlement in the county, a view to which C.W. Chalklin subscribes:

> In fact there seems to have been a limit to the size of towns that were just regional centres. (...) While the regional towns were usually administrative centres, held bigger or more specialized markets, offered a wider range of services in their shops and tended to attract a small leisured population, the total demographic effect was limited unless other work was available. (8)

Certainly, contemporary accounts of journeys across the county emphasise the significance of Surrey towns as market centres. Daniel Defoe's account, written between 1724 and 1727, not only notes the market towns - even Woking 'a private country market town, so out of all road or thoroughfare, as we call it, that 'tis little heard of in England; ... ' (9) - but also records the commodities for which each market was known: Farnham, 'without exception the greatest corn market in England, London excepted' (10), Dorking 'of all markets in England famous for poultry' (11) and Croydon ' a great corn market, but chiefly for oats and oatmeal, all for London still' (12) are singled out in particular.

Jonas Hanway's eight day journey from Portsmouth to Kingston-upon-Thames, published in the middle of the century, similarly stressed the market functions of various towns, even though, in the case of Farnham, and for all its

significance as a hop and corn market, he refused to be impressed: 'Farnham is a considerable market town, but I saw little more in it than dirty houses' (13). From both Defoe and Hanway, Surrey appears to be a populous and wealthy county, despite its lack of towns. Both noted the large number of big houses in the county. Hanway commented 'this county of Surrey is distinguished for fine houses and delightful seats' (14), while Defoe specified: 'The ten miles from Guildford to Leatherhead make one continued line of gentlemen's houses, lying all, or most of them, on the west side of the road, and their parks or gardens almost touching one another' (15). Further evidence for the existence of a significant number of large houses in the county is provided by Lawrence Stone's analysis of the hearth tax returns of the wealthy counties around London. He found that Surrey had the highest density of houses assessed for 20 hearths and over. The breakdown of his analysis for the county is as follows:

11 houses had up to 24 hearths

28 houses had up to 34 hearths

61 houses had up to 44 hearths

61 houses had up to 45 hearths and over. (16)

These large houses, however, did not have large estates attached to them: this is implicit in Defoe's comment about adjoining gardens. That many of the large Surrey estates had been broken up is noted in William Stevenson's 'General

View' (17) and is more systematically documented in the antiquarian's William Bray's list of 'families formerly possessed of considerable estates now broken into parts and in the hands of various persons' 18).

It may be argued, therefore, that conditions in Surrey encouraged the development of relatively small but lively market towns. The county's rural industry, its large but scattered employment possibilities, its substantial disposable personal incomes, its established market network and its access to the London market by river ensured that this was so. It is within the context of these trends that the administrative structures of the urban centres and of the corporate towns in particular will be examined here.

A: The corporate towns

An answer to the problem of definition of towns and boroughs needs to be provided initially, as the distinction between thriving villages and small market towns is difficult to draw. Similarly, while some boroughs benefited from a full panoply of commercial and judicial courts, the right to return members of parliament, protected markets and a corporation of elders - advantages bestowed and protected by royal charters - other boroughs could only claim some of these privileges. The difficulty is usually overcome by rough and ready rules of thumb, as Professor Martin noted in

his introduction to the new edition to Charles Gross's Bibliography of Municipal History:

> The great problem was to decide at the outset what constituted a town, and that was one that had long vexed Kings and their advisers before it came to concern scholars. Gross's own interests lay primarily, but by no means exclusively, in legal and constitutional history and so in institutions rather than in urban society or economic affairs, and he chose a pragmatic definition of municipalities which accepted the past or present formal statutes of a city or borough, and certain historic characteristics of boroughs, such as control of a market, without further question. (19)

While acknowledging that boroughs could be prescriptive as well as formally incorporated by the crown or by powerful magnates (20), this thesis will concentrate on the nine eighteenth century Surrey towns which were recognised as boroughs by contemporary and nineteenth century antiquaries. The constitutions and origins of these nine boroughs were indeed quite varied. Gatton, Bletchingley, Reigate and Haslemere possessed little more autonomy than the average manor, apart from their right to return a member of parliament. The administrative machinery of this first type of borough, labelled 'manorial borough' by the Webbs, was similar to that of the typical, classical manor. Southwark, Kingston, Guildford, Farnham and Godalming, on the other hand, developed particular constitutional structures. This chapter will emphasise the organisation of this latter group of boroughs but the fact that there were a number of towns,

which, though they failed to 'achieve a formal municipal status' (21), nevertheless developed significant communal organisational structures, should be borne in mind. Thus, not all large towns were boroughs, nor indeed, were all boroughs towns.

A clear illustration of the complexity of borough structure is instanced by the case of Southwark, often called 'The Borough' in contemporary literature, eighteenth-century administrative documents, and denoted as such on London Transport's Underground map. It extended over the parishes of St Olave, St John, St Thomas, St George and St Saviour and comprised three manors called the guildable manor, the King's Manor and the Great Liberty Manor (22). More prosaically, for Defoe, it was a long street of about nine miles in length whose principal beauty consisted 'in the prodigious number of its inhabitants' (23). Despite the fact that it was considered by contemporaries as the largest town in Surrey (24), from the middle of the sixteenth century it was formally granted by royal charter to the City of London and thenceforth treated as a ward of the Corporation of London, which was lord of the three manors. Although the Borough, or rather the Bridge Ward Without, as it was constituted, was part of the corporation, through a historical accident, it was not allowed to elect its representative to the corporation, but automatically passed to the senior alderman. The anomalous situation of Southwark

was further exacerbated by the fact that, from 1550 it was granted its own separate court of Quarter Sessions. The City was determined to act on the grant of the court and within a month of the issuing of the charter, the Bridgemasters were asked to adapt St Margaret church as a 'Justice House' (25). Such determination was bound to offend the Surrey county magistrates and from 1550, a long-standing and spiteful quarrel took place between the borough and the Surrey county authorities. The terms of the charter of Edward VI which granted the court to Southwark had not specifically excluded the county magistrates from acting within the borough which they did from 1630 if not earlier. Not surprisingly, the Surrey justices obstructed any move made by the borough authorities to have the ambiguity removed: by 1760, the county rate precept for the Southwark parishes amounted to £1,500 annually (26). In the early eighteenth century, the Borough took the matter to court twice, but the King's Bench court confirmed the status quo on each occasion. By the nineteenth century, the Borough's complaint was more likely to be voiced in pamphlets than taken to court (27).

The records of the General Court of Sessions at Southwark show that at the beginning of the reign of George II, the court was active and took cognisance of a wide array of business - from the common criminal cases to purely administrative work such as the hearing of rating appeals (28), the recording of oaths of allegiance and against

transubstantiation (29), the arranging of transportation contracts for the removal of convicted prisonners (30) and the registration of transportation bonds (31). Other administrative duties of the court included the recording of certificates of summary convictions for swearing returned by magistrates who had acted out of sessions (32) and the maintenance of the Borough prison, the Compter (33).

The criminal business of the court covered many cases which might well have been dealt with by the County Quarter Sessions. One notes, for instance, the trial of 'common prophaners of the Sabbath' (34), of persons who kept their shops open on Sunday (35) and again of an individual who set about 'combing perukes and shaving during the divine service' (36). More serious offences included theft of property valued at 10 pence (37), the sale of meat unfit for human consumption (38) and, very occasionally, felonies (usually thefts) (39). In general, however, the number of presentments brought to the attention of the court dropped in the course of our period, a development which will be discussed later in this thesis (40). Given the tensions which existed between the borough and county authorities, it is interesting to note that many of the defendants presented to the court were in fact examined by county magistrates. Thus, in 1754, the deposition of Mary Clayton of Southwark, who had accused Mary Hastings of the theft of a table was taken by William Clark, 'one of His Majesty's Justices of

the Peace for the said county' (41) and passed on by him to the borough justices. Similarly, a deposition about a 'house of bawdry' was taken by Clark in August the same year. In the ensuing sessions, depositions taken by Richard Roman and William Hammond, both county magistrates, also survive. Since these Justices could have sent the cases on to the county Quarter Sessions, it be assumed that the animosity of the county bench was perhaps intermittent. The fact that this occurred, however, points to a weakness in the constitution of the Borough Sessions. The 1550 charter empowered the Lord Mayor, the Recorder and the alderman who had served the mayorality to act as Borough justices, but since most of them would not have lived in Southwark, the Borough Court was dependent on the goodwill and hard work of those magistrates who did live locally, and those magistrates were county justices. It follows, therefore, that although the Borough Justices attended the court to hear and determine cases, the number of trials that were put to them depended on factors outside their control. It is not surprising to find that the volume of business transacted by the court in the nineteenth century declined very substantially, particularly when the scope of summary justice was increasingly broadened.

In spite of this dependence, the Borough magistrates occasionally attempted to assert their autonomy. In 1745, for instance, the court decided to investigate the right of

the county Quarter Sessions to summon the Borough constables to make their presentments there but this is not a common occurrence (42).

The City's interest in Southwark, from the Tudor period onwards, was essentially financial: provided its farming of the borough yielded an acceptable revenue, it interfered relatively little in its internal affairs. Apart from its Sessions court, Southwark was governed through the manorial courts, and as we have seen in connexion with the parish of St Saviour, through active vestries, which attracted the political interest normally associated with elections to borough corporations. The manorial courts, whose 'most constructive contribution' was the regulation of trade and the market (43) originally included leets and some debt recovery powers. By the eighteenth century, however, these functions had very much weakened and had been altered to fit in with parish organisation. Thus constables were elected on a parish rather than a manorial basis. In spite of this, and although the Borough existed as an entity rather than a collection of villages on the South of the Thames, David Johnson, in his book on Southwark, suggests a close relationship with the county of Surrey:

> In most respects, Southwark remained very much a part of Surrey. Apart from periods when the City asserted it jurisdictional rights the Lord Lieutenant and his deputies had command over military affairs, the Sheriff of Surrey returned writs, and most important of all, the Justices of

> the Peace supervised all aspects of local government. (44)

While the purist might claim, and with some justification, that Southwark was hardly a borough at all, the status of Guildford and Kingston-upon-Thames as boroughs is not in doubt at all.

The seventeenth-century antiquarian, Richard Symmes, noted that 'the towne of Guildford is a very antient borough' in his Surrey Collections (45). An early charter of 1257 and a formal incorporation of 1488 were post-facto recognition of the fact that the town, by the thirteenth century, 'already had behind it a history of two or three hundred years as an organised urban community, enjoying the rights and privileges usually considered inseparable from borough status' (46).

The institutional manifestation of its borough organisation was a series of courts - the Curia Mercatoria or Guild Merchant, the Curia Legalis or court leet, the Fair court, the Three Weeks Court, and, from 1603, the Borough Sessions. It is no accident that the Guild Merchant should appear first on our list. The scope of guild courts varied from borough to borough, from being independent from and subordinate to the town council, to being so closely associated to it that the two bodies were scarcely distinct. In Guildford, the latter occured:

> ... the guild had existed from its earliest days, in so close a symbiosis with the town that 'Guildhall' and 'Town Hall' were virtually interchangeable terms. (47)

The court, rather predictably, covered more than just commercial business, and notably, elected Mayor and Approved Men ('probi homines') in whom the Corporation had been vested by the charter of 1488, and the bailiffs, the serjeants at mace and the Hallwardens. The procedure at election has been described by Manning in his book on Surrey:

> The approved men, thus incorporated consist of eight persons (including the Mayor) called Magistrates, and a number of bailiffes which is indeterminate, but seldom or never greater than twenty. The Mayor is always elected, on the Monday after Michaelmas, out of the bailiffes: And, in this case, after the expiration of his office, he continues a magistrate for life, in the room of the deceased. And in this manner only are vacancies, one every year, at the same time that the Mayor is chosen. (48)

The Guild also elected the Recorder and the Town Clerk, although these offices were not replaced annually. The general business of the court included the supervision and maintenance of public buildings, such as the erection of a new Rye, Malt and Oats market in 1749 (49) and the protection of commercial rights of the Corporation against the owners of the Wye navigation:

> At this Guild Merchant it is ordered that a bill

> in Chancery be preferred [sic] against the proprietors of the river Wye for the recovery of the one penny by the load for all goods navigated thereon due to this town at Christmas day last past unlesse they propose to Mr Mayor a certain annual summe in lieu thereof to be approved off at the next Guild Merchant to be held for this town. (50)

The assimilation of Guild and town business, already marked in the mediaeval period is striking in the eighteenth century. The court leet business, in addition to being discussed by the same people, is entered in the same book; the overlap between the two courts is so great that 'it is almost impossible to make any valid, long-term distinction between them' (51). The only regularly respected distinction, in fact, related to the election of officials. As was noted above, the guild elected the mayor, the Approved Men and the bailiffs; the leet, on the other hand, faithful to its manorial origins, elected the constables, the aletasters, breadtasters and the tithingmen (52).

Guildford was granted by charter a number of other, mostly commercial, courts. Evidence for the activity of these courts is variable in quality and extent. The records of the court of Pie Powder, a court which sat on the same day as fairs and markets to settle immediately cases between parties whose continual travelling would make it difficult to bring to court otherwise, are very scant indeed, even in the sixteenth century (53). The court of the Clerk of the Market is only slightly more active by the mid eighteenth

century (54). The Three Weeks Court, on the other hand, is more fully accounted for in the borough archives. It was, after the Guild and the Leet, the third most important borough court, and possibly the one of which the ordinary inhabitants of the town would have been most aware. Its essential function, which survived into our period, was to settle personal actions such as debt and trespass (55). From the time a sessions court was granted to Guildford in 1603, the magistrates met by constant adjournment on the same days as the Three Weeks Court (56). It is a mark of the flexibility of the approach of the rulers of the Corporation to their court business, that for instance the admission of the borough freemen could take place at the Guild, the Leet or the Quarter Sessions meetings (57).

While the business transacted in Guildford was comparatively slack and formalised, the records of eighteenth-century Kingston convey the impression that the municipal traditions there were still strong and the courts powerful. The functions of the Corporation at Kingston were distributed rather differently among the wide array of municipal courts. The main one was the Court of Assembly which 'consisted of the whole body Corporate' (58). From the granting of the charter of 4 Charles I, which reiterated and altered earlier grants (59), the corporation comprised two bailiffs, elected annually, a High Steward, elected for life by the court of Assembly, a Recorder, similarly elected but

who had to be a barrister, Gownsmen, that is to say the Corporation members who had been bailiffs, Peers, of whom two were chosen annually from the last group, the Fifteens, of whom in turn two were elected annually by the free tenants of the Manor out of their own number. Thus even here, some manorial connexion is evident.

The interrelation of these various groups of members is perhaps best understood in the context of the annual borough elections. These were held on the sunday before Michaelmas (60) and the process started firstly with the election by the Fifteens out of the free tenants of the Manor of Kingston of two new members who were to be aleconners for the ensuing year. The Fifteens would then elect two of their own number into the Peers and would also nominate four persons from the Gownsmen and the Peers. Of these four, two were finally chosed Bailiffs one by the existing Bailiffs, the Recorder and the High Steward (whose absence was required by custom) and the other by the Gownsmen and Peers (61).

The two High constables were normally the two people elected into the Peers by the Fifteen. In addition, two chamberlains, two bridgewardens, two schoolwardens were elected annually to oversee various aspects of corporation finance (62).

A number of officers were appointed by the corporation, all of whom were either salaried or received fees. Thus the Town Clerk, whose fees might amount to £200 a year, the three serjeants at mace whose emoluments were £60 per annum, a Hall Keeper who received £20 a year and two mace bearers salaried at £5 per year, were appointed by the court, usually for life.

The Court of Assembly, in addition to elections and appointments, covered many issues. Apart from decisions taken to enhance the prestige of the borough - such as the sending of a loyal address to the King on the death of his father in 1727 (63) or the regular granting of presents to the Judges of Assizes on their arrival in the town (64), various routine matters were also considered: the election of poor people to the almshouses (65), the dividing of the income of various charitable bequests (66), the preservation of the fishery on the Thames (67).

The corporation, whose meetings were roughly monthly at the beginning of our period but slowly became less frequent, also addressed itself to various financial problems. In 1727, for instance, it decided to distrain the property of those of its tenants who were in arrears (68). Again, in the same year, it ordered:

> ... that Mr Bailiffes for the time being and all future bailiffes do receive the tolls of the oat

> market and grainerys over it & standings under, they annually paying to the Chamber six pounds 5s and the Chamberlain to keep the premises in repair. (69)

The Corporation was thus anxious to make the position of Bailiff as attractive as possible at a time when the burden of the office was weighing increasingly heavily. The uncontroverted power of the bailiffs is a noticeable feature of the borough constitution. The presence of both bailiffs was required as part of the quorum of the meetings of the Court of Assembly. For the bailiffs were the judges of a number of other municipal courts - the Court of Record, the General and Borough Sessions and the Market Sessions.

The court of Record, or Saturday court, was confirmed to the Borough by a charter of 1480/81, although the earliest records for it date back to 1406 (71). The Court, which in our period was presided over by the Recorder and the two Bailiffs or any two of them, dealt with pleas of debt and a few cases of trespass and assault. Its proceedings led to the compensation of creditors and the victims of assaults rather that the judicial punishment of those defendants found guilty. From the passing of the Stamp act in 1698, a duty of sixpence was levied on every action in a Corporation Court worth more than forty shillings, which accounts for the fact that actions were stated to be in the sum of either thirty nine shillings or very considerably more. The court was not altogether defunct by

our period. It met weekly, and although the cases under thirty nine shillings are relatively rarely prosecuted to the end (72), those concerned with larger amounts of money, which numbered about two a week in the period 1736-1744, were more likely to be fully determined by the court (73). Further proof that the court was still of some significance in our period is evident in the regularity of the attendance of the Recorder, Nicholas Harding, M.P.

Letters patent of 1603 made the bailiffs, the outgoing bailiffs for the space of one year, the recorder and the steward of the Saturday Court, Justices of the Peace ex officio for the Town and Liberty of Kingston and a number of adjoining villages. Within this geographical area, extended to the whole of the Hundred of Elmbridge except Richmond in 1628, their powers were extensive: they could take cognisance of 'all kinds of felonies, murders, homicides, robberies, mayhems, insults, riots, routs, forcible entries on lands or tenements, trespasses against the peace ...' (74). The Sessions, held twice a year, normally in October and April could act within the area and that the sessions were only held twice a year, meant that the court did not have the importance it might otherwise have established for itself.

If there is some doubt as to the vitality of the Borough General sessions no such uncertainty attaches to the

work of the town Petty Sessions, or Bailiff's Sessions (76). The bailiffs' minute books record in detail the great variety of business which they undertook. Examinations for settlement and bastardy, information relating to assaults, tippling on Sundays, thefts, blasphemy, miscellaneous orders relating to encroachments of the highways, the Assize of bread, lists of licensed alehouses in the town and Hundred of Kingston, the swearing of market officers and highway proceedings for the period from 1750 onwards are entered at length in these volumes although one should note that the quantity of business declined in the last decade of our period (77). Whenever possible, the bailiffs would refer cases to the Kingston general sessions rather than to the County Quarter Sessions. When, in September 1734, Sarah Welsh complained of an assault which 'bruised her very much' by Joan Richardson, she entered a recognizance to prosecute the case at the next borough sessions (78). This is by no means an isolated example. Since the bench would have been composed of the same magistrates, it is clear that the Kingston magistrates took the necessity for a jury seriously. In general, there is no evidence, just as none was noted for Kingston and Elmbridge, for the expansion of Petty Sessions business in Kingston, especially at the expence of the Borough Sessions (79).

The Market Sessions were held by the bailiffs in their capacity of Clerks of the Market. Their jurisdiction

extended over the Hundreds of Kingston and Elmbridge, and the court took cognizance of various trading offences, normally on the presentment of the 'jury of the court and the Clerks of the Market'. The constables were expected to act on its behalf and in 1727, for instance, the constables of Esher, Thames Ditton, Weybridge and Cobham were presented 'for neglecting their duty in not returning the list of the inhabitants within their several liberties that use weights and measures ... ' (80). At the beginning of our period, although the court met less often than in the seventeenth century, the then annual meeting was nevertheless seriously prepared. Thus in 1731, some sixty two presentments are recorded (81). By the 1740's trading offences are less vigourously prosecuted in this court.

Despite obvious weaknesses, then, it is clear that the municipal machine of Kingston was more sophisticated than that of Guildford. A final important difference between the two corporations is the relatively insignificant role of the Guilds in Kingston civic life. From 1579, the craftsmen of Kingston were divided into four companies, the Woollen Drapers, the Mercers, the Cordwainers and the Butchers, which between them encompassed most of the trading activity in the borough at the time (82). By the eighteenth century, this system no longer reflected the reality of commercial organisation in the town. By the beginning of our period, the Butchers' company was called the Victuallers' (83); the

Wollendrapers, whose prosperity had noticeably declined in the seventeenth century had to all intents and purposes ceased to exist (84); and the Mercers' company was accepting into its ranks members of unrelated professions such as the Town clerk's apprentice (85). This guild structure, in addition to being inflexible, did not allow for the constitutional accommodation of the guild interest in the corporation. And while it is true that there was some duplication of personalities between the two groups, the structures of the guilds on the one hand and of the corporation on the other remained independent of each other.

Kingston and Guildford were by far the largest two boroughs in the county. The other corporations were vested in far smaller groups of people. The development of the borough of Farnham exhibits unusual ecclesiastical origins. The manor of Farnham was given by Ethelbald, King of the West Saxons, to the See of Winchester, in whose ownership it remained. In 1452, William of Wainflete, bishop of Winchester granted the borough to the burgesses of Farnham with all its appurtenances including an All Saints day Fair, the right to elect bailiffs without interference from the bishop, for which the burgesses were to pay twelve pounds of silver yearly (86).

In 1566, a new charter was granted to the borough by Bishop Horne, which laid down the structure of the

Corporation. Borough business was to be directed and determined by two bailiffs and a group of twelve burgesses who were to be elected annually on the Monday preceding Michaelmas. In the century which followed the granting of the second charter, the courts, held in the town hall approximately every three weeks, took cognizance of cases of trespass, debt under forty shillings and, very occasionally, assaults (87). The corporation set the price of bread and beer, enforced a beer monopoly and prosecuted the malpractice of tradesmen who used light weights. (The inhabitants of Farnham were obliged to buy beer brewed by their own brewers, under a penalty of five shillings.) In addition, apprentices were bound before the court, whose functions might be characterised as essentially manorial, although its control of commerce within the borough was well developed. In 1649, the corporation was sufficiently active to attempt to obtain a new charter to extend its privileges, but by 1717 recruitment into the corporation was already proving difficult:

> In the month of March, 1717, the number of bailiffs and burgesses had dwindled down to four, and the vacancies were only filled up so as to make the number of the corporation seven, instead of the proper and original court of fourteen. (88)

Clearly the annual elections were not taking place according to the prescribed procedure. The last election took place in 1762. Vacancies were not being filled up, presumably because the income of the office did not cover its expences and in

1790 the charter of incorporation was surrendered to the bishop. The circumstances of its surrender were noted by Thomas Allen:

> This charter was considered of so little value, that the vacancies in the number of burgesses not having been filled up, about the year 1790, Mr W. Shotter, an attorney, was the surviving bailiff and the only one of the corporation; and he, having been indicted for not repairing the two bridges at Tilford, which it was alleged the bailiffs were bound to repair, and having been put to considerable expense, he desired to surrender the charter to the bishop, and accordingly did so, sending the same, with all the records, to the castle. (89)

The discorporation of Farnham occurred against a background of continued commercial prosperity for the town. As was noted earlier in the chapter, Farnham was one of the leading corn markets for the whole of the country in our period.

Godalming, the last borough which evolved a distinct, extra-manorial organisational structure in our period in Surrey, was incorporated by royal charter in 1575, in recognition of its importance as a well-established clothing town. Ordinances, required by the charter, established the constitution of the corporation (90). It was to be governed by a warden, a warden's bailiff and eight assistants, whose qualification for office was that they should have served as constable, tithingmen or have been long standing residents of the borough. The Warden was elected on Michaelmas by the

Assistants, office holders and past office holders, out of three nominations from the ranks of the Assistants. The two successful candidates' names were to be put forward the following year. The Warden was to have two votes and could not serve twice in four years. The bailiff was elected on the same day as the Warden by the corporation, and was expected to have been either a constable or a tithingman by the time of his election. The process for the election of the Assistants - who held the office for life - is not altogether clear, but it would appear, from an election in 1760, that the franchise for their election was quite large (91).

The ordinances also empowered the Warden to authorise people to settle in the borough; to fine 'haunters of tippling houses'; to pay for the repair of the clock; and generally to oversee the maintenance of municipal property. Thus, in the eighteenth century, although by then the court proceedings are very summarily recorded and only really concern the annual election, such items of expenditure as the providing of a padlock for the borough prison in 1742, the guilding of the markethouse weathercock and the mounting of a public subscription for the repair of the fire engine are also entered in the minute book (92).

The remaining Surrey boroughs need not detain us very long, as their burghal privileges were restricted to the

right to return members of parliament. The machinery of local government in these parliamentary boroughs did not markedly differ from that of non-incorporated parishes. Haslemere, which Symmes described as 'a borough town much decayed' in the seventeenth century (93), was otherwise run through its leet. In 1760, for instance, the leet presented the lord of the manor for not holding a court; appointed aleconners; amerced butchers for killing cows in calf and calves under five weeks old (94). Up to 1784, there existed a manor of Haslemere whose extent coincided with the borough. From that date, however, it was incorporated into Godalming manor, and the only remaining local body left to administer the borough was the vestry (95).

The history of the borough of Reigate is similar in that the manorial court was the authority through which the returning officer for the election was selected. Although a thirteenth century reference to the borough of Reigate has been recorded, there is 'no trace of any separate Borough Court having been held' (96). The Lord of the Manor had very extensive privileges, while those of the burgesses were very restricted.

Finally, one may mention Gatton and Bletchingley as the worst examples of rotten boroughs in Surrey. Defoe noted them in the 1720's - 'Here are two miserable borough towns too, which nevertheless send each of them two members to

Parliament ... ' (97). Gatton which boasted 73 hearths in 1664, had but 23 houses and 135 inhabitants in 1821, Bletchingley numbered 165 hearths in 1664 and 1,116 inhabitants in 1821 (98).

So much then, for the structural organisation of borough government in eighteenth-century Surrey. From the outset, it appears from this survey that the old borough constitutions had very much weakened by the beginning of our period and that generalisations about borough government may be difficult to make because of the varied origins and development of the towns in question. Nevertheless, an attempt at synthesis is necessary to describe the extent of formal self-government allowed to the corporate towns in the county in the eighteenth century.

B: Borough administration

(a) The weakening of municipal traditions

The difficulties encountered by the Surrey corporations in our period have already been alluded to. None could be more dramatic than those experienced by Farnham, where the borough was disincorporated at the request of the overburdened last remaining member of the corporation. In all boroughs, even Kingston-upon-Thames, increasingly terse, formal and sparse minutes of corporation meetings attest to

the lack of interest of the local wealthy trading families in the government of the borough.

This lack of interest is evident at Kingston in a number of ways. In 1736, the quorum of the Court of Assembly had to be lowered to enable the meetings to take place:

> Whereas by an order made at a court of Assembly holden the fifth day [of] December 1706, it was ordered that from henceforth no business should be transacted at a Court of Assembly without the number of 21 persons of the Corporation present whereof the Bayliffs be two, and for as much as since the making of the said order it has been oftentimes difficult to have a meeting of 21 persons to consult and consider of business relateing [sic] to the said Corporation, whereby great inconvenience and delays frequently happen; it is therefore ordered and agreed at this court that from henceforth fifteen persons of the Corporation whereoff the Bayliffs for the time being to be two shallbe [sic] a sufficient number to doe and transact any business at any court of Assembly hereafter to be holden. (99)

At Kingston, corporation customs were under pressure throughout the century. Concern was several times expressed that certain corporation members were not in fact properly qualified to act as such. In 1731, the court of Assembly agreed the following order:

> It is at this court desired that Mr Recorder will draw up an order to prevent persons being elected into this corporation who have not been tenants of this mannor for a year before or [words] to that effect. (100)

The dispute did not end there, however, and three years later, the following compromise was reached:

> Whereas lately some disputes have arisen and been made relating to the qualifications of some of the members of the Corporation when they were chosen into this body therefore for the preventing such disputes for the future it is now ordered that the qualification of any person now a member of this corporation shall not henceforth be disputed or controverted but that all the present members shall enjoy the like priviledges one with another. (101)

Other traditions were being broken too: in 1721 the borough aleconners refused to provide a feast for the bailiffs and freemen on election day and the corporation sought legal advice on whether they might be fined or removed from office for such behaviour (102).

Fines for refusing to accept office are recorded in most of the eighteenth century borough minutes in Surrey. At Guildford in 1756, for instance, John Peche, a druggist, opted to pay a fine instead of serving as a bailiff - the fifth such refusal recorded that year (103). Fines in Guildford were quite substantial: William Brinkwell, who refused to serve as a bailiff in 1742 was penalised in £8, and the corporation stipulated further that he might not be accepted as a bailiff at a later stage unless he gave the 'company' a treat (104). When John Lee refused the Wardenship of Godalming in 1754, his fine was £10 (105). At Kingston a general order passed by the Court of Assembly in

1739 set the fine for declining to act as bailiff at ten guineas (106). Indeed the corporation at Kingston was faced with a severe crisis in 1764 when both the bailiffs and one of the high constables nominated to act as officers in the ensuing year refused to do so. The corporation took legal advice on the issue and the case prepared for counsel's opinion summarises the problem and attempts to account for the lack of interest of local notables in corporation business:

> It is to be observed that the office of bailiff of this town is not only honorary but (as well as that of several other officers appointed) very important to the well being of the town and its inhabitants and particularly the office of Bailiffs for they with the assistance of the Recorder preside over a court of record of extensive jurisdiction with respect to place and power the court having a right to determine all kind of pleas tho' above 40s ejectments or pleas relative to title of land not excepted and they are also Justices of the Peace within their jurisdiction and for a year and a day after their office of Bailiffe is expired and the expences attending the office are nearly if not more than paid by fines, quit rents and tolls and if that were not the case Mr Mackrell and Mr Penner are from their property quite sufficient and fit persons to serve the office and were never before elected into the office tho' they have been amongst the list of peers for several years past ...
> The refusal of serving the office of Bailiff seems to be modern for heretofor the office was coveted with great eagerness and much interest made for it but the bailiffs being intitled to the tolls of the markets which was [sic] heretofore very profitable and that profit being lost by the iniquitous method of forestalling, ingrossing and regrating they plead it is become very expensive and therefore decline executing the office. (107)

The issue was particularly acute in Kingston since, as is stressed in the case made above, the bailiffs were magistrates and judges. Some doubt may be entertained as to the importance of the financial difficulties mentioned above. Public office had always tended to be expensive. It may be more appropriate to suggest that, given that bearing office cost money, the inducements to do so in terms of power, influence, public acknowledgement grew to be less attractive. As the commercial significance of the Corporation became less obvious, so corporation office was less sought after, particularly by those people whose business activities might have been hindered by borough monopolies and protectionist customs.

Indeed, the decline of these controls is central to any investigation of borough government in the eighteenth century.

(b) The decline of commercial controls in the boroughs

The gradual disappearance of the commercial courts of the boroughs of Guildford and Kingston-upon-Thames which have been noted above are merely the outward manifestation of a deep-rooted problem. The commercial monopolies which the boroughs had been incorporated to protect were threatened by many new developments. The growth of rural industries, the withering of the guilds, the appearance of

many more shops, the development of an anti-protectionist outlook contributed to a marked change in the commercial role of towns. They were no longer as insulated from their hinterlands, but rather acted as 'centres for trade between local producers and consumers, whether farmers or craftsmen, and were collecting or distributing points for a wider regional trade' (108). The integration of rural and urban industry has been noted by Peter Clark:

> Instead of towns attempting as in the past to beat down country craftsmen through statutory action or litigation, excluding village producers from their markets, the growing emphasis was on co-operation. (109)

In both Guildford and Kingston, this new mood was shown in the slow decline of the franchise system. Whereas at the height of the history of the incorporated boroughs the privilege of being a freeman was much sought after, its usefulness was clearly less obvious by the opening years of our period.

At Guildford, there were five ways of acquiring the status of freeman: by being apprenticed to a freeman of the borough for seven years, by being the eldest son of a freeman, by paying a fine, by being granted the honour gratis, or, finally, by being admitted into the corporation as a member. The franchise allowed the freeman to vote in the parliamentary elections as well as the right to trade or

carry on an occupation in Guildford (110). Just over 100 admissions are recorded in Guildford for the period 1727-1760 (111). The flow of admissions is fairly regularly spread throughout the reign, as 32 were enumerated between 1730-1739 and 35 for 1750-1759. As the following table shows, however, the crafts recorded show a marked change:

Freemen's admissions in Guildford, 1730-39 and 1750-59

	1730-39	1750-59
Barber/perriwigmaker:	2	4
Basketmaker:	-	1
Butcher:	-	2
Carpenter/joiner:	2	1
Collarmaker:	1	1
Cooper:	1	2
Cordwainer/shoemaker:	8	5
Farmer:	1	-
Freeman's son:	-	8
Gentleman:	-	5
Glazier/plumber:	3	1
Grocer/tallowchandler:	1	2
Haberdasher:	1	1
Mealman:	1	1
Millwright:	1	-
Patternmaker:	-	1
Stonedresser:	1	-
Tailor:	2	-
Tanner:	1	-
Tinplatemaker:	1	-
Tobaccopipemaker:	1	-
Weaver:	1	-
Unspecified:	3	-

The appearance of freemen's sons in the later period may be discounted, as some of the tradesmen included in the earlier period may have gained their freedom through parentage. What is interesting is the fact that, together with the gentlemen, about one third of the freemen listed in the

later period did not have an occupation allocated to them, and this on a document which was meant to provide proof of one's occupational status and right to trade in the borough. This provides some grounds to suspect that, by the end of our period, the freedom of the borough of Guildford was far less connected with the right to trade as with the right to vote and perhaps the ceremonial status which the freedom implied (112). There can be no doubt that the freedom conferred some status, as it was granted gratis to six members of the Onslow family in the course of the eighteenth century (113).

A broadly similar trend can be detected from the Kingston-upon-Thames freemen's rolls. About 160 freedoms were granted in that borough between 1727 and 1760, but whereas 54 were granted between 1730 and 1739, only 30 were enrolled for the period 1750-1759 (114). A drop can therefore be noted in the latter years of the reign of George II, which becomes all the more significant when the fact that up to 1745 roughly as many freemen claimed their freedom by serving apprenticeships in town as through paternal inheritance, while from then on an increasingly large proportion of the freedom granted in Kingston were of this latter type. From 1747, a new type of franchise was added, the freedom granted to members of the corporation who were not freemen. By 1835, the majority of admissions were of this type. As in Guildford, therefore, the status of

freeman in Kingston became less important as far as trading rights were concerned, although it retained ceremonial associations.

The weakening of the corporations' control over their commercial privileges is particularly evident at Kingston, possibly because the borough authorities there fought a rearguard action in an attempt to protect its monopolies and customs. Much of the Court of Assembly's business, especially in the second half of our period relates to the issue of 'tolerations'. The Corporation was empowered to grant tolerations to traders who, on payment of a fine, were allowed to ply their trade in the borough in spite of the fact that there were not freemen there. Throughout our period, grants of tolerations are common and do not relate to unusual trades, the original reason given by boroughs for breaking these controls (116). Thus in 1729 a toleration was given to an ironmonger, in 1730 to a glover, in 1739 to a hatter and an upholsterer and in 1740 to another ironmonger while, paradoxically, a chemist was refused a toleration in 1752 (117). Tolerations became easier to obtain in the course of the century. An analysis of the toleration bonds which survive in the Corporation archive shows that while up to 1757, the consideration for which the bond was entered into was normally £40, from 1758, £21 was a commoner figure (118). (The fines themselves were much smaller and varied between six and ten pounds.) (119). Although it became

easier to obtain these tolerations, a large number of people evaded the process altogether. In the decade from 1750 to 1760, the commonest single entry in the court of Assembly minute book relates to unlicensed traders. This was clearly a long-standing problem. In 1738, a committee was formed to prosecute the 'foreigners' who traded in Kingston (120). Again, in 1755, an order was passed to stop unfree tradesmen from trading in the borough and cited a precedent of 1635 to justify this step (121).

Yet there is little doubt that the corporations were acting against the spirit of the age. When, in 1749, two people in Kingston were ordered either to leave the town or to stop plying their trade upon pain of being sued, the following comment, possibly in a slightly later hand, was entered in the minute book:

> Those who are in the least acqainted with the sinister act of county corporations may here behold a[?n example] of arbitrary rule in the case of the above named individuals. (122)

Indeed, the corporation of Kingston-upon-Thames displayed strange inconsistencies in its attempt to control commercial regulations within the borough boundaries. On the one hand it accommodated the new spirit, by granting tolerations not merely to trade but to open shops in town, which was bound to affect the corporation revenue in market tolls, and on the other hand, it reiterated, rather unrealistically, old

rules whose purpose was perhaps no longer very clear to contemporaries as we shall see below (123). The unease of the corporations is even more explicit in the case of Godalming where, in 1726, the authorities took legal advice on the validity of article eleven of their ordinances, which stated that no man could set up trade in the borough without the consent of the Warden and his assistants, without serving an apprenticeship in the town or without qualifying as an 'antient inhabitants of the town'. The fact that the Warden and his Assistants sought legal advice at all on this practice is interesting, but the legal opinion is revealing:

> I am of opinion that this by-law is in restraint of trade and therefore not good unless there be some custom to warrant it, for I conceive [sic] no Corporation has such a privilege without custom or an act of Parliament to support it. (124)

Legal opinions on corporation customs represent an interesting summary of contemporary opinion, particularly when the question put to counsel is a challenge to a practice which earlier ages had not only found acceptable but desirable. The Kingston-upon-Thames archives include a fine series of such eighteenth-century opinions, of which two in particular throw doubt upon corporation regulation of commerce. The first one relates to the right of a freeman to employ 'foreigners' when there were freemen within the borough able to do the work. Counsel in this case suggested that such an action violated a freeman's oath and could lead

to the disenfranchisement of the person who employed (presumably) cheap labour in this way (125). The second case, more surprising for the simplicity of the question which one would have expected to have been answered many times before, concerned the right of the eldest son of a freeman to claim his freedom at 21, before the death of his father. It is frankly surprising that the custom should have been so unclear as to require legal clarification (126).

The evidence points to a decline in the control of the boroughs of the commercial activity which took place within their boundaries. The courts of the Clerks of the Markets were gradually disappearing in the course of our period; a franchise was not essential to trading within the boroughs; the tolls of markets and fairs were decreasing as the opening of shops was frequently allowed. In short, the spirit of laissez-faire which was simultaneously leading to the disappearance of the guilds encouraged the evasions or even the legal challenge of simple borough customs. This is not to say and indeed the distinction should be emphasised, that weaker corporations led to dying commercial centres. We have already noted the example of Farnham, where, though the borough was discorporated, its market was still thriving. Similarly with Guildford, where although the corporation scarcely concerned itself with issues of self-government, its vitality as a commercial centre in the eighteenth century is hardly in doubt. J. Russell's account of the

town, published in 1777, makes this quite clear:

> The markets, which are on saturdays, are as good as any in England for wheat, barley and oats, and furnished with almost all other necessaries. (127)

It does not follow, however, that a declining corporation was proof of a thriving market town: Godalming's decline, for instance, continued. Conversely, Southwark, though it was not incorporated as a separate entity was the leading town in the county, its commercial viability apparently unaffected by its status. Similarly, Croydon, which sought to be incorporated in 1690 and 1707 and failed, was nevertheless recognised as an important commercial centre by contemporary travellers (128).

It remains to comment that while borough organisation continued to structure the administration of Surrey corporations, by the eighteenth century, they did not possess sufficient power and political will to continue to regulate commercial activity within their boundaries. The growth of vestry organisation, in particular in large centres of population has already been noted in chapter one. This development, together with the increasing confidence of the county magistrature was bound to affect the independence of the corporations, especially as the closer relationship between towns and their hinterlands led to a blurring of distinctions between the rural and urban worlds. The

relationship between the borough and county administration is thus central to a description of corporation organisation in the eighteenth century.

C: The boroughs and county administration in eighteenth-century Surrey

The rivalry which existed between the authorities of the long established urban conglomerations and the county magistrature and officialdom have already been mentioned in connexion with Southwark. Similar tensions existed elsewhere, as at Kingston-upon-Thames where the corporation several times recorded its disapproval of county officers' encroachments on its perogative. Thus the following order was entered in the court of Assembly minutes in 1727:

> Ordered that an account be brought against the Sheriffe of the county of Surry for entering the Liberty of this town, and the same be prosecuted at the charge of the Chamber ... (129)

Another, though less belligerent, order was passed in 1752:

> It being reported at this Court that the Sheriff for the county of Surry and the Coroner of the same do frequently enter this Liberty and execute their offices there contrary to the intent of our Charter, it is ordered that the town Clerk do forthwith draw a case in relation to the same and take the Attorney-General's opinion thereon and report the same at the next Hall. (130)

The Corporation sought legal advice on these and related issues on a number of occasions throughout our period. In 1750 opinion was sought on the legal precedent for the Town's right to choose its own Coroner and its right to post fines (131). Later in the century, the county Sheriff's right to enter the town and to take the poundage on the execution of warrants was also investigated (132). These attempts at asserting their autonomy were relatively infrequent, however, as the power of the county bench, though occasionally checked was increasingly pervasive. After all the county Quarter Sessions were entitled to rate the boroughs for various county taxes and the inhabitants of Kingston, Guildford and Southwark appeared at the County Quarter Sessions even for offences which might have been heard by the borough magistrates.

Several explanations might be offered for the weakness of the three borough Sessions which existed in Surrey in the eighteenth century. The first one, already mentioned in relation to Southwark, was that the boroughs were not granted exclusive sessions jurisdiction within their boundaries. When in 1603, Kingston-upon-Thames and Guildford were granted their courts of Quarter Session, the county magistrates' right of interference within the borough was never in doubt; duplication was especially likely in the case of the Kingston-upon-Thames jurisdiction which extended over the whole of the Hundred of Elmbridge except Richmond.

Another contributory factor to the weakness of the borough Sessions was that they did not always meet quarterly. Kingston only met twice a year, when the court could be busy (133). At Guildford, it met by renewed adjournment on the same day as the Three Weeks Court, but did not often have any business to transact (134). At Southwark, the court which was quite active in the eighteenth century gradually withered away. Even in our period, the borough sessions were acknowledged to be less important than the county meetings (135). Indeed, the fact that the county Quarter Sessions met annually in three of the boroughs must also have weakened their sessions.

In a sense, however, the rivalry between the boroughs and the county bench was more theoretical than practical. Although complaints about county encroachments on borough prerogatives were real enough, the hostility was not sustained, and there is evidence of co-operation between the boroughs and the county authorities. Indeed, in the case of Southwark, one might suggest significant duplication of personnel. Justice Lade, for instance, whom we have seen as a leading light in the Southwark vestry, was also chairman of the county Quarter Sessions and Member of Parliament of Southwark (136). In Guildford, Arthur Onslow was nominated Recorder in 1719 (137), while in Kingston he was elected High Steward for life in 1736 and was succeeded by his son in 1768 (138). The ubiquitous Nicholas Harding was Recorder

of Kingston-upon-Thames from 1726 and was succeeded by another active county Justice of the Peace, Elliott Bishop in 1758 (139). While the position of High Steward was essentially honorary, these offices nevertheless carried with them the function of borough magistrate ex officio. Nicholas Harding's regular attendance at court meetings, including commercial court meetings has already been noted (140). His opinion was sought over legal disputes on which he duly reported (141). At Guildford, Arthur Onslow's attendance is recorded at an ordinary meeting of the borough Sessions, on 10 August 1731, when all the business of the meeting amounted to fining the tasters of fish and flesh for their non-attendance (142).

Some of the county magistrates were active in borough politics also. On the occasion of Arthur Onslow's contested election to the Stewardship of Kingston-upon-Thames, the list of voters on his behalf included Nicholas Harding, William Harvest and Walter Kent, all active Surrey magistrates (143). When the commissioners for Southwark market were appointed under the legislation of 1754 (144), of the top fifty of the group of 119 commissioners named in the act, seventeen were active magistrates. Their names - Arthur Onslow, Kenrick Clayton, Richard Onslow, Peter Thomason, William Richardson, Thomas Budgen, George Onslow, William Belchier, William Hammond, Nicholas Harding, William Clayton, Joseph Creswicke, William Clarke, John Copeland,

Ralph Thrale, Henry Thrale, and John Lade - will recur in the course of this thesis (145).

In addition, there is evidence of close personal contact between the county magistrates and corporation members and officers. When Nicholas Harding appealed against his land tax assessment, his representatives in court were William Charlewood, Town Clerk at Kingston and William Browne, an active member of that corporation (146).

The close relationship between the boroughs and the leading county families is perhaps at its most explicit in the context of parliamentary elections. Here, however, a different number of Surrey boroughs come into play, as Kingston refused to return MPs from the mediaeval period onwards (147), and a number of rotten boroughs were represented in parliament. For the most part, however, the eighteenth century electoral returns of the Surrey boroughs did not present any surprises. Guildford, for instance, whose franchise numbered two hundred voters, was a safe Onslow borough and always returned at least one Onslow nominee throughout our period (148). Bletchingley was similarly in the control of the Clayton family. At the beginning of the reign of George II, the Clayton interest was maintained by virtue of the family's ownership of the manor of Bletchingley but after 1750, when Kenrick Clayton acquired the manor of Godstone, its hold over both seats

became that much stronger (149). Reigate was equally safe. Indeed, there was no contested election in that borough between 1722 and the reform bill. In the course of the early part of our period, Hardwick consolidated his interest in the borough and thereafter, the seats were regularly divided between the Cocks and the Yorkes (150). Gatton, with 22 voters at the beginning of the reign of George I and only 2 towards the end of that of George II was in the pocket of the Newland family, and then, from 1751, of James Colebrooke, an active Surrey Justice of the Peace (151). Of the six Surrey parliamentary boroughs, only two, Southwark and Haslemere, were not wholly predictable in their returns. Southwark, with its large franchise of 2,000 voters, tended to return members with brewing connexions, while, in Haslemere, which had returned Onslow nominees in the seventeenth century, the situation was by no means so clear in our period and a conflict developed there between the More Molyneux - friends and allies of the Onslows - and the Oglethorpe families which will be discussed later (152).

Overall, however, the comment made of Guildford elections by John Russell might be applied to most of the Surrey borough and county elections. For him, all the election contests were more 'to be looked on as the conflicting struggles of powerful family interests than political demonstrations' (153).

There was another, less tangible aspect to the relationship between the county gentry and the urban centres of the county which, with their shops, assembly halls, court rooms and race courses offered the leisured, wealthy, educated person enjoyable amenities. In an interesting article on the development of provincial urban culture, Peter Borsay argues that four areas of growth in town life - leisure facilities, the economy, public amenities and architecture - developed from the seventeenth century onwards to constitute an urban renaissance in provincial towns. For him, this renaissance was built on the 'surplus wealth' content of personal expenditure. He noted that:

> Two different types of centres can be distinguished here: those that attracted surplus wealth, and those that created it. Among those towns attracting wealth, the most dramatic example of growth was to be found in the rise of health resorts (...). There was a second sort of town able to attract quantities of surplus wealth for quite the opposite reason. This was the urban centre which because of its affinity with a specific rural area could depend upon the patronage of a substantial number of the local gentry. The best example of this was the county town. (154)

Borsay, of course, was basing his argument on the experience of the large provincial centres, but, in a humbler way, his analysis applies to the Surrey towns. The spectacular growth of Epsom, where people took the waters (and indeed which developed into a pleasure town rather than a health resort), which, by the opening of our period already boasted assembly

rooms used by the county bench as a meeting place, is typical of the development described by him. There were also large attendances at the Guildford and Banstead races. Yet the Surrey towns qualified more as county and market centres and meeting places for various business and pleasure pursuits. The ruling families recognised the use of the provincial towns to them, even though most of the families had houses in London. This they did in a way which might have been investigated further by the historians of the urban renaissance of the eighteenth century, and that was by funding major improvement schemes. In the broad context of county amenities, one might mention the heavy financial involvement of the Weston family in the building of the Wey Navigation (155). Later in this thesis, we shall note the commitment of various individual gentlemen and justices of the peace to the building of bridges for instance (156). In the narrower context of Surrey towns, although no development comparable to the rebuilding of Bath took place in the county in the eighteenth century, it is noteworthy that the rebuilding of the Guildhall in Guildford was substantially paid for by the Onslow family (157). The Onslows also put up part of the money required for the rebuilding of the main church in Guildford (158). Elsewhere, an eighteenth-century report on the Reigate charities shows how much the local notables contributed to the provision of local amenities: ten charities were created between 1641 and 1750. While most of them had traditional objectives, the

gift of Andrew Cranston, Vicar of Reigate at the beginning of the century, of his collection of books to 'make a public library', is a good example of this type of generosity (159).

By helping build churches and guildhalls, families like the Onslows not only reiterated their claim to determine election results but also stated their commitment to the development of agreeable urban environments. Their interest in urban government was not solely manipulative or political. While there is no doubt that the urban renaissance did affect Surrey, it would be to oversimplify to suggest that the trends described in the foregoing paragraphs represented all the components of 'urban culture' which, it is suggested here, originated from a broader spectrum of social experience.

Conclusion: Eighteenth century urban culture in an agricultural county

The boroughs, though structurally weak, are nevertheless an integral part of eighteenth century local government machinery. It is clear, however, that their organisation was too inflexible, their protective monopolies too antagonistic to existing commercial thought and practice, their insistence on the exclusion of hinterland producers unrealistic. The closer relationship between the countryside and the town helped break down corporatist

protectionism. The growing acceptance of the county gentry in the government of the boroughs foreshadowed a trend which was to intensify in the nineteenth century (160).

Even in a rural county like Surrey, features of a distinct urban culture can be distinguished. Although the plan of inner Guildford, for instance, is still today that of the old mediaeval city and although eighteenth-century Croydon retained the mediaeval triangular market plan identified by Professor Hoskins (161), nevertheless, the amenities offered by the towns to the leisured classes were growing. Pleasure resorts such as Epsom and the fashionable settlements in Richmond and along the Thames decked themselves out with beautiful houses, theatres and shops. Yet it should be stressed that the building of the mansions noted by contemporary travellers like Defoe and Hanway extended beyond the boundaries of the cities. Paradoxically, therefore, urban culture in that sense is not confined to the towns, particularly in a county like Surrey which offered both the pleasure of rural pursuits and the proximity of London and thus enabled the local gentry to live the ideal of the 'urbs in rure'.

A further reservation about the recent research on the renewal of urban culture in the eighteenth century is that it has emphasised the achievement of 'polite' society but not taken into account the contribution of ordinary people to the formulation of the urban lifestyle of the period -

their tradition of dissent, humour, opposition to authority, rebellion even. There can be little doubt that this other strand of urban culture has got a place in the concerns of historians. Although the towns of Surrey could never throw up the equivalent of the Gin or the Gordon Riots, yet interesting examples of this other urban culture have been recorded. At its most mundane and most unobtrusive, it might perhaps be seen in the growth of the public house, which, for an earlier period, Peter Clark had already identified as 'a vital and widespread institution in the popular landscape, an importance created by a complex of factors, many of them associated with a developing and urbanizing society' (162). Again, fairs and recreations such as bull-baiting or football were specifically reported as typical entertainment for apprentices and journeymen in towns and large villages. It is significant that these popular forms of recreation should have become increasingly controlled by the county magistrature. The licensing of public houses, of course, was not new, but as we shall see later, tighter regulation of fairs is noticeable in the course of our period. The fate of Southwark fair, which was reduced from a fortnight to three days in 1743 before being abolished in 1763 is typical. The fair, which was depicted by Hogarth, is thought to have been in turn an amalgamation of three different fairs (163). (It may be worth noting, in parenthesis, that although the fair was abolished because of alleged disorders, the opening itself was usually witnessed

by the Lord Mayor and corporation of London in state even in the middle of the eighteenth century.)

More unusual expressions of this other strand of eighteenth century urban culture are reported from the borough of Haslemere, where the Jack o´ Lent was regularly celebrated. The custom involved the making of a figure 'made to represent, as near as the garments at command will admit of the resemblance, some townsman who has offended the popular will´ (164). The figure was then thrown astride a donkey who was driven around the borough on Easter Monday. The effigy, which carried a placard specifying the offence, was eventually meeted out a suitable punishment. The custom continued into the middle of the nineteenth century: in 1850, the ring-leaders were fined £5 for disorderly conduct. The first ban led to a public subscription being raised to pay the fine, but in the following years, resistance withered as more policemen were drafted into the area for Easter Monday.

Haslemere was also famous for its Guy Fawkes celebrations. Although it is true that this type of event is very commonly found throughout the country, it should perhaps be stressed that in that borough, the effigy of Guy Fawkes was not an anonymous symbol, but was made to resemble a local notable (165). The criticism of authority often implicit in popular demonstrations in this case became

explicit.

At Kingston the year was also punctuated by popular gatherings. Apart from the three fairs (on the Thursday in Whitsun week, on the second of August and the following day; and on the thirteenth of November and the seven following days), and a Shrove Tuesday football match, the borough was famous for its Nut-cracking Sunday which involved the whole congregation, old and young, cracking nuts in church on the Sunday 'next before the eve of St Michael's day'. It was reported that 'the cracking noise was often so powerful that the minister was obliged to suspend his reading, or discourse until greater quietness was obtained' (166). The custom, perhaps not surprisingly was stamped out in the 1790's. There thus existed in Kingston a calendar of popular events which rivalled the more formal ceremonies which marked the opening of the Assizes, Quarter Sessions and annual municipal elections.

In Southwark, in the 1720's there existed a completely separate community - the Minters - governed by explicitly anti-establishment rules. The Minters' debtors' sanctuary was made the subject of the House of Commons enquiry, in the course of which their organisation was carefully investigated. Various witnesses were examined in the course of this enquiry, and their depositions give some idea of the Minters' lifestyles. Justice Lade, the first deponent,

stated that great disorders continued in the Mint even after the passing of the legislation of 8 & 9 William III, which had attempted to clear up the problem; that a Mr Orchard was barbarously treated by the Minters, who thought, erroneously, that he was a bailiff; that the Minters went out into the City, paid £4 or £5 on goods worth £20 or £30, ordered the sellers to bring them near the Mint and then carried the goods away; by for that he, Justice Lade had received threatening letters. He then proceeded to give a detailed description of the formal organisation of the Mint:

> [That] at the latter end of the last Parliament, the Examinant saw one William Harman, and others, proclaim that 4 streets in the Park in Southwark, which are above half a mile round, should, for the future be deemed within the privileges of the Mint; and that no person should presume to arrest any body there;
> [That] several persons within the Mint have set up a jurisdiction of their own, and take upon them to regulate and determine matters there:
> [That] one Monk is called their General;
> Gilding their Recorder;
> Saunders and Martin and Stead their Judges;
> Townshend and Wright their beadles and messengers

The other witnesses explained how they had suffered at the hands of the Minters, being beaten and forced to wade into open sewers, forced to kiss brickbats covered in human excrement or forced to curse their parents for threatening to take legal action against their debtors (167).

It is no accident that these examples should have been drawn from the larger market and incorporated towns rather than from the new fashionable settlements at Epsom or Richmond or from small rural villages. A ceremonially conscious town like Kingston which received the Judges of Assize with great pomp and witnessed banquets and feasts on important municipal events provided ready-made patterns of what might be done to institutionalise dissent. It is not claimed here that in upholding these customs the inhabitants of Surrey towns were articulating a political attack on the governing elite. Nevertheless, these popular demonstrations asserted the right of ordinary people to criticise the local oligarchy and are an integral part of the eighteenth-century urban culture. The fact that most of these customs were eradicated by recourse to prosecution rather than allowed to die through lack of interest indicates that they were seen as subversive.

The challenge presented by such organisation as that elaborated by the Minters in particular, which might be seen as not merely a critique of particular individuals but as an open attack on the machinery of government, to an increasingly confident county administration could not be tolerated beyond the early part of the century. The growing authority of Quarter Sessions is the development charted in the second part of this thesis.

COUNTY ADMINISTRATION IN THE REIGN OF GEORGE II

THE EXAMPLE OF SURREY

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PART TWO: THE WORK OF THE COURT OF QUARTER SESSIONS

CHAPTER THREE: Procedure at Quarter Sessions

At the beginning of the seventeenth century, the sumptuous ceremonial of the opening of the Quarter Sessions, already a well established tradition, livened up the humdrum lives of the inhabitants of the town where it was taking place, a poor substitute, no doubt, for the pomp of the Catholic rituals and the excitement of the residual manifestation of fertility rites which the Elizabethan religious settlement had extirpated. At the beginning of the eighteenth century the court would often dispatch its business in the intimacy of the backroom of the local public house, or even, as in Surrey in 1705, in the home of one of the Justices (1). Significantly, the government found it difficult to persuade gentlemen to serve as magistrates after the Restoration (2). Christopher Hill suggests that this change was due to the fact that increasingly independent magistrates felt little need for public approval (3), but this interpretation does not explain a further reversal, within a couple of decades, in the Justices' openness. In Surrey, by the beginning of the reign of George II, Quarter Sessions were held in public and, from 1736 at the latest, and quite regularly thereafter, the crowd of spectators was so numerous (and tumultuous) that the bench frequently ordered the constables of neighbouring parishes

to attend, in addition to those officials normally called upon to keep order in court (4). The post-Restoration introversion disappeared as a renewed conception of the dignity of the court was formulated (and was expressed by an Augustan attention to procedure and form).

A parallel development was the growing public interest in scandalous or generally shocking criminal cases: not only did more people attend the court as spectators, but the public was kept informed of the more salacious or violent cases tried at the assizes by practically all the newspapers, which often seemed to record 'maiden assizes' with regret. The publishing of the Newgate Calendar, a dictionary of notorious biography, which also started in our period also attests to the undoubted public interest in violent but also anti-authoritarian behaviour (3).

It remains true, however, that public attention concentrated on criminal cases only and that after Quarter Sessions came out of their post-Restoration obscurity, more administrative or 'county' work was transacted behind closed doors, as the growth of Justices' committee work, which we shall be investigating at the end of this chapter, shows.

Attention to form and emphasis upon court procedure developed quite markedly during the period from 1720 to 1760. Though procedural change was to be only gradual

throughout our period, the changes that did take place reveal a strong determination to improve the efficiency of the court. This effort can be traced in many of the English counties and, more generally, in the plethora of Justices' manuals and miscellaneous legal books (6). By our period, these manuals had respected and respectable antecedents, which dated back to the reign of Henry VII. Indeed the treatises of Marrow, Fitzherbert, Crompton, Lambard (all published in the Tudor period) and of Dalton (in the first half of the seventeenth century) were frequently and often too literally cited by late seventeenth and early eighteenth-century authors. By the mid-eighteenth century, a different type of manual had begun to appear, embodying a new attitude to law-giving and county administration. A striking example of the change is provided by a comparison of two typical works of the period, William Nelson's The Office and Authority of a Justice of the Peace, which reached its tenth edition in 1729, and Richard Burn's The Justice of the Peace and Parish Officer (fourth edition, 1757), which ran to nineteen editions to 1800. Nelson's work looks back to the tradition established by Lambard, Dalton and seventeenth-century writers such as Bohun, Bond and Chamberlain and is typical in its lack of references and its uncritical plagiarisms. Burn, on the other hand, is more original, and if he cites the inevitable Lambard, it is usually in conjunction with the treatises of Stamford, Coke, Hale and Hawkins, and the reports of Hawkins, Keble, Salkeld

and Lord Raymond. Burn's work evinces a thorough knowledge of statute law and exposes failures and loop-holes in the law. The presentation of the two books is similar and they both use an alphabetical approach to their subject, following in the footsteps of earlier authors. This dictionary approach survives to this day, with such standard reference texts as Halsbury's (7). Symbol of the multiplicity of duties of the Justices, the manual, which was often advertised in the general press (8), also was symptomatic of the growing specialisation of local English administration: from the end of the seventeenth-century manuals for local officers, ranging from the Clerk of the Peace to jurymen and constables became widespread (9).

Based on these manuals and the most important series of court records for the county of Surrey (order books, minute books, process books, 'bundles'), the rest of this chapter will be devoted to a study of the procedure at Quarter Sessions in the eighteenth century. Such a study is, I think, necessary, both because as G. R. Elton noted '... only a precise knowledge of the machinery can really unlock the meaning of the record' (10) (one of the themes of this thesis) and because the Surrey procedures exhibit revealing anomalies for our period.

I The first morning at Quarter Sessions

The sleepy and dusty atmosphere described by the Webbs as typical of Quarter Sessions in the eighteenth century can be dismissed, at least for Surrey, during the period under review. Certainly, there was a fairly respectable number of Justices in attendance at most sessions throughout the period (the largest number was 51 at the Michaelmas sessions of 1743) (11), and a large crowd, even if certain constables and bailiffs failed to turn up. The writ of venire facias, which should have ensured the attendance of all the people needed at the sessions (it named the high and petty constables, the prisoners, the defendants on bail, the plaintiffs and the witnesses expected for the sessions), was addressed to the Sheriff who then had to select jurors and order his representatives in each locality, the bailiffs, to notify each person named on the writ and the jurors after their selection. The Surrey writ of venire facias was dated on the first day of the preceding sessions and was in the name of at least two Justices. Curiously, two forms of writ were used in Surrey at the beginning of the century and it is an indication of the growing formality of the court that in 1739 a committee of the most ancient magistrates of the county was established to investigate and advise on the eradication of this duplication (12).

The first morning of the meeting (which in Surrey was

usually the Tuesday of the week specified by law) was taken up by the following long opening routine. After the court had settled down and the court cryer had commanded the reading of the Commission of the Peace (which was done by the Clerk of the Peace), the high and petty constables, the coroners, the stewards and the bailiffs were called upon to make their presence known to the Clerk who would tick their name off a list supplied by the Sheriff (which often survives as the outer membrane of the sessions rolls). Officers absent without excuse were fined, although since no sheriff's estreat book survives for the period, it is difficult to know whether these were levied. The jurors then proceeded to take their oaths: the foreman first, then the others, in groups of three or so.

(a) The juries

Judicial theory insisted on the presence of at least three types of juries at Quarter Sessions: the grand jury, the hundred jury and the petty jury.

The grand jury, in some ways the most notable of the three, was composed of wealthy ratepayers who were not Justices themselves. The number of grand jurors could vary between twelve and twenty three but did not exceed that number to ensure that twelve should constitute a majority: Burn suggested that unanimous decisions were not expected of

them provided at least twelve of them concurred (13). The grand jurors were supposed to represent the opinion of the county on all manner of matters. Surviving Grand Jury comments on the political situation are rare in Surrey, the two exceptions being a loyal address to the King on the victory at Dettingen and an expression of anti-French prejudice at the end of the century (14). Their interventions were otherwise strictly technical. They could present roads and bridges in disrepair and ask for steps to be taken to improve the situation, or indeed, as they did in 1759, they could condemn the state of the county gaol and recommend the building of a new one (15). Their most important function, however, was connected with the criminal procedure: it was they who decided not whether a defendant was guilty or not, but whether the accusation was substantial enough to warrant a trial.

There were twenty-one 'hundred and liberty' juries in Surrey, which, as their names suggests, comprised jurors from the Surrey hundreds and liberties. These jurors had to own land in the county (with a minimum value of ten pounds) and had to be over twenty-one and under seventy, although sick men could be excused if they could produce a medical certificate (16). There should have been twenty-four jurors per hundred or liberty, but in small divisions, a strict application of the rule would have presented the small number of people with suitable qualifications with a heavy

burden of attendance. In the case of the Clink Liberty in Southwark the court formally recognised the problem and ordered that the liberty should only be represented at two of the four annual sessions and then by eighteen rather than twenty-four jurors. Even in larger hundreds it was clearly difficult to get a sufficient number of jurors to appear and it seems that in practice the representatives of the hundreds furthest away from the meeting place of each Quarter Sessions were not usually expected to attend. Thus Godalming hundred was not usually represented at the Southwark sessions, and, conversely, the jurors of the various Southwark hundreds and liberties did not go down to the Guildford sessions (17). Moreover, there is evidence to suggest that when an insufficient number of jurors turned up, two hundreds would combine to present joint findings. A contemporary manual suggests that numbers on these juries could be made up with petty constables, and, again, it seems that this happened in eighteenth-century Surrey (18). In the seventeenth century, these hundred and liberty juries reported problems from their localities: roads and bridges in disrepair, noisy inns and brothels, personal misbehaviour. The introduction of petty, brewster, and highway session, however, emasculated the function of the hundred jury, which in the eighteenth century frequently returned 'All Well' bills to Quarter Sessions. Their attendance was still needed at the sessions, however, as it was from these juries that jurors for the third type of

jury, the petty jury, were selected.

The petty jury's function was solely connected with the criminal work of the court. It returned the verdict of guilty or not guilty on criminal trials. For the more serious crimes, the felonies, a slightly different procedure was invoked and a writ of capias might be issued by the court to summon the jurors (19). In general, though, the court did not deal with many felonies and the hundred jurors, after taking another oath, were pressed into service as members of the several 'traverse juries' convened to sit on the misdemeanours tried by the court. The jury's decisions had to be unanimous, a tradition which has often been criticised by students of the English judicial system. A century later, in 1823, a French observer pointed out the disadvantages of the system:

> L'institution des jurés est d'origine anglaise mais il faut convenir que nous l'avons bien perfectionnée. La nécessité où ils sont de rendre leur déclaration à l'unanimité est une source féconde d'abus; non seulement on a vu bien des fois un seul juré forcer les autres par son obstination, à adopter son opinion, contre leur conscience; mais il est maintenant de notorieté publique que lorsque les jurés ne se trouvent pas d'accord, il se fait entr'eux une sorte de transaction: ceux qui ne croient pas l'accusé criminel, consentent à le declarer coupable, à condition qu'on ajoutera à la déclaration une recommandation à merci. Mais il est possible qu'on n'ait pas égard à cette recommandation, et dans ce cas il en résulte que des jurés ont condamné à une peine afflictive, peut-être même à la mort, un homme qu'ils regardent comme innocent. (20)

The foregoing summary description of composition and functions of eighteenth-century juries obscures many of the problems which the Surrey authorities had contend with in practice.

By the mid-seventeenth century, if not before, the phraseology of both versions of the writ of venire facias used in Surrey deviated from the text recommended by the standard manuals and used regularly in other counties. Instead of commanding the sheriff to select twenty-four grand jurors and twenty-four jurors for each of the hundreds and liberties, according to the traditional version -

> ... tam viginti quatuor probos & legales homines de quolibet Hundredo in balliva tua, quam viginti milites & alios pobos & legales homines de Corpore Comitatu tui (tam infra Libertates quam extra) quorum quilibet eorum habeat quadraginta solidos redditus terrarum ... (21)

- it gave him the order to select twenty-four jurors for each hundred and liberty without even mentioning the grand jury as a separate entity:

> ... non omittas propter aliquam libertatem in balliva tua quin venire facias coram justiciariis nostris ... xxiiij probos & legales homines de quilibet hundredo de Brixton´ et Wallington´ Tandridge et Reygate, Kingston´ et Elmebridge Blackheath et Wootton´ Copthorne et Effingham, Farnham Godley Godalming et Wooking´, villis de Croydon et Lambeth ac villis de Dorking et Reygate Aceciam xiiijor probos & legales homines libertat´ de le Clink le Upp Ground et libertatis Decani et Capituli Ecclesie Cathedralis et Metropolitane

> Christi Cantuarie et Libertatis manerii domine Regine de Wimbledon´ ad inquirendum pro nobis et corpore comitatus predicti de lis que adtunc et ibidem ex parte nostra iniungenur ... (22)

Commenting on this anomaly, H. Jenkinson has suggested that it provided proof of the practical evolution towards the coalescence of the grand and hundred juries. He further suggested that it would be incorrect to speak of a grand jury in Surrey after the mid-seventeenth century (23). There is, however, another explanation for this apparently anomalous and unworkable system: what happened is that the high constables were asked to act as grand jurors at Quarter Sessions in addition to their other duties. This practice had many advantages. Firstly, the high constables had to attend the sessions for many other reasons and a fairly good turn out could be expected of them. (There is no doubt that the high constables took their attendance at Quarter Sessions seriously, judging from the marked attendance lists on the sessions rolls.) Secondly, the fact that they could be counted on to attend meant that the sheriff had fewer jurors to summon (always a welcome fact, as it was notoriously difficult to get jurors to give up three days of their time and spend money on food and accommodation for a purpose not obviously useful to them). Thirdly, the qualifications for high constables were quite demanding, and while it cannot be assumed that all the high constables fulfilled these qualifications, using the body of high constables as jurors still nevertheless guaranteed a

reasonably 'respectable' jury, that is one that could probably read and write and one which, even if it did not know the finer details of judicial procedure, still had some inkling of what it was expected to do. In fact, even a cursory glance at the attendance lists of high constables at Quarter Sessions shows that hundreds were often represented by the same high constable for several years running, which ensured highly trained grand jurors. Having an educated and self-confident jury, however, might present the bench with occasional difficulties. In 1739, the jurors petitioned the bench for the right to elect their own foreman (24). It is not known whether this request was acceded to or not. Against this single instance of the independence of the Grand Jurors, one might mention a number of letters from magistrates to the Clerk of the Peace (an example of which is discussed in Chapter six below) which clearly implied that influence might be brought to bear on the Jury.

It may be that this practice of pressing high constables into Grand Jury service arose by analogy with the legally sanctioned practice of making up incomplete hundreds juries with petty constables (25). In the late seventeenth century already the Surrey bench expressed some doubts as to the legality of such a procedure (26). These doubts were reiterated in 1743, when a committee formed to enquire into the matter condemned the practice (27). In spite of these pricks of conscience, this custom survived and, in 1750, the

court protested against the presence of deputy high constables on the grand jury, without criticising in principle the traditional use of high constables as grand jurors (28). The rule could not be broken indefinitely in a court which was increasingly respectful of form and procedure and, in 1769, the necessary reform was introduced (29). From that date, the sheriff was commanded to select a number of jurors sufficient to fill two juries, a grand jury, which was then formally resuscitated in the wording of the writ of venire facias, and a petty jury, called traverse jury. This measure, which effectively abolished the hundred and liberty juries, solved many problems. Pricking and summoning a reduced number of jurors facilitated the Sheriff's and his bailiffs' task. In theory it should have become easier to select people who possessed the necessary qualifications, although the duty of acting as a juror did not become more popular. For the whole period under review, and after 1769, many letters of excuse were addressed to the clerk of the peace, his deputy or individual Justices by jurors who were desperate to avoid the duty. This sort of problem was not particular to Surrey, and the parliamentary legislation of the period attests to the general interest raised by the question. The 1730 Act 'for the better regulation juries' was widely commented on in the press of the time (30). The Act, which more specifically covered jurors returned for Assizes and Nisi Prius rather than Quarter Sessions courts, nevertheless

provides clues about the sort of abuses encountered in the summoning of juries. The lists of jurors were to be made up from the ratepayers' lists and posted annually on the church door; provision for appeal against these lists was made; wilful omissions were punishable; and finally, the names of the persons summoned to a particular session were to be drawn from a box. It is clear from these regulations that both sheriffs and constables were suspected of malpractice. Judging from J. Beattie's analysis of jurors' attendance at Assizes, however, while most jurors who lived in the vicinity of Assize towns were likely to be summoned several times in their lives, there does not appear to be much evidence for unduly frequent summonses in the period 1736-1753 (31).

(b) The charge to the jury

After taking their oath, the jurors heard 'the charge', a formal exhortation by the chairman of the bench. Many manuals sketch out the basic ingredients of the charge: basically the chairman explained their task to the jurors. A late seventeenth-century manual divided into three types the offences of which the jurors had to take cognisance. These consisted of offences firstly against the 'health of the soul' of the inhabitants of the county (represented in court by the jurors) and these included witchcraft, the wearing of arms during divine service, the wearing of superstitious

tokens such as rosaries and crosses and the profanation of the Book of Common Prayer; secondly against the 'health of the head of the county', which comprised all serious crimes or felonies (murders, rapes, burglaries, the pulling out of tongues ...) and general public disorder (assaults, riots); and thirdly, against the 'health of the body of the county', which covered all economic offences (engrossing, regrating) and various misdemeanours (common scolds, nuisances ...) (32). The charge at Assizes was presented in a similar way and headings such as 'crimes against God' or 'crimes against the King' are commonly found (33).

Unlike that of many other counties, the Surrey Grand Jury never requested that the county should bear the expense of publishing these charges. Ten manuscript charges covering the period from 1736 to 1751 survive in the Loseley papers deposited at the Guildford Muniment Room and while these clearly show that the average charge was not quite as stirring as the one described above, the assumptions which lay behind the Surrey ones deserve closer scrutiny (34). In these, the charge is used to justify and extol the virtues of the British parliamentary system and its laws which are presented as impartial and fair. Although the charge could be used to comment on specific events, such as the 1745 rebellion, which is mentioned in the Loseley charges, it might be better understood as a lay sermon (35). Dealing with generalities, rather than, say, the sanctity of

property. It is interesting to note that swearing and drunkenness are picked out in most of the ten charges as particularly reprehensible behaviour.

(c) The end of the first morning

After the reading of the charge, which could take about half an hour, the court diversified its activities, a process which improved its efficiency. On the one hand sacrament certificates were scrutinised and oaths administered (36) and, on the other, the agenda of the sessions' criminal business was drawn up. The court cryer would call the prosecutors (whose attendance was enforced by a recognisance) and the clerk of the peace would then write up the formal bill of indictment, with the help of the plaintiff, who would furnish him with the necessary details. (As the employment of solicitors became more common, so it became more usual for the prosecutor's solicitor to draw up the indictment). The witnesses would then take their oaths, and, with the plaintiff but in the absence of the accused, appear before the grand jury in a separate room. According to certain manuals (and indeed there is some evidence to suggest that this was the case in Surrey (37), it was during the deliberations of the Grand Jury that the Clerk of the Peace would read publicly the statutes and royal proclamation which by law had to be read at Quarter Sessions. The reading included the act against popery, the

riot act, the Black Act and the proclamation against immorality (38). At the Easter sessions the act condemning corruption at elections had to be read and, at the summer meetings, the act concerning jurors.

Other duties, also imposed on the Justices by act of parliament, were usually perfunctorily undertaken towards the end of the first morning of the sessions. At Easter, the Justices were meant to put out wage assessments for the county, that is, publish a list of the maximum permissible wages for various trades. At the same sessions, the Justices were expected to appoint county treasurers, assess the county rates owed by each parish, and set down the carriage rates. In the Autumn sessions, the Custos Rotulorum, or the most experienced or most ancient Justice would nominate a committee of two Justices to audit the Sheriff's accounts and the bench named the searchers of bricks and tiles and of copper and tin. Evidence for all this type of business survives erratically in the Surrey Quarter Sessions records for the eighteenth century and it is difficult to say whether offices were allowed to lapse or whether appointments or re-appointments were always recorded in the minutes. The appointment of county treasurers, for example, appears relatively regularly, though not annually, but that of searchers of bricks and tiles much less frequently. The Sheriff's accounts are not mentioned at all throughout the period and none of his account books survive, yet the

appointment of committees of Justices to audit them are scrupulously recorded.

The order in which all these duties were performed by the court varied from county to county. The process described here corresponds essentially to the Surrey and Hertfordshire customs. It differs in some small particulars from that mentioned by Richard Burn who based his manual on his experience in Westmorland. In that county, for instance, the public reading of the statutes mentioned above happened before the compiling of the bills of indictment.

In any case the order was immaterial. In most counties on most occasions, the end of this business was made to coincide with the end of the first morning session.

II Criminal process at Quarter Sessions

After the formalities of the first morning, the afternoon in most counties started with the criminal business, which, more often than not, continued into the second day of the sessions. At the beginning of the period under review, the Surrey practice accorded with this tradition, but in 1754, the court decided to reorganise the customary agenda and ordered that appeals against decisions taken at Petty Sessions or by Justices acting on their own should take precedence over the criminal business, and these

should be started in the afternoon of the first day of sessions (39). This reorganisation (which made the business of the court more predictable because notices of intention to appeal against these orders were issued before the session started) was not immediately accepted and the court found it necessary to reiterate the order. Indeed it is not clear whether it was ever fully and regularly implemented at all the sessions. In the first half of our period in Surrey, the court always started with the criminal process, and this sequence will be respected in the following description.

Any such description, however, must begin with the caveat that the procedure used to try criminals was also applied to obtain the implementation of what would now be described as administrative orders. The surveyors of the highways of parishes with roads in disrepair could find their names cited among those of people accused of petty larceny, assault, keeping hogs or running disorderly public houses.

(a) The procedure up to the compilation of the indictment

A case could be brought to the attention of the court in a number of ways, the commonest being by the presentment of justices, constables and high constables and juries; less frequently, it could be promoted through the agency of

a justice, on the application of the prosecutor. Although it need not necessarily have been the case, the former procedure was more commonly used for the prosecution of public nuisances and the latter in the case of individual private prosecutions. (The distinction between the two is rarely made in the Surrey process books, however.)

At our period, judicial pursuits were essentially dependent on the tenacity and single-mindedness of the victims or of their relatives. The plaintiffs not only had to sue the defendant in court, but first had to discover and apprehend the person whom they thought the culprit. The parish constable usually intervened only for the imprisonment. If the arrest occurred late in the day, and if there was no local lock-up, the accused was held at the constable's house until the following morning, when he or she was taken, as soon as possible, to a Justice of the Peace and submitted to a preliminary interrogation. (Where no arrest took place, the magistrate could summon the accused to appear.) The justice was a local dignitary, who often knew, and was known by, both the plaintiff and the defendant. In this rather incestuous situation (which in effect replaced the police files of today), the justice became the arbiter of local reputations, since the veracity of a statement was established according to the standing in the local community of the person who was making it. A first, unrecorded, practically unrecognised 'trial' took

place at this stage: the magistrate could either decide to free the accused straightaway if he felt that the accusation was unsubstantiated, or decide that the case should be tried either at Quarter Sessions or at the Assizes. A report in the London Evening Post illustrates the importance of Justices of the Peace in the initial stages of the criminal proceedings:

> Last week a poor fellow was apprehended stealing two two penny loaves from a baker's shop on Tower Hill, and carry'd before a Justice of the Peace in St Katherine's for the felony; but on examination his worship finding the man to bear the character of an honest industrious fellow before that time, to have a wife and three children starving, and himself out of business by the severity of the frost, with much difficulty dissuaded the prosecutor from the cruelty of his intention and sent the man about his business with a necessary caution not to let his poverty get the ascendant of his honesty for the future. (40)

David Philips' study of indictments and accusations in the Black Country in the nineteenth century shows that about 40% of prosecutions were abandonned at this stage (41). Although the data which were used to establish that figure are not available for eighteenth-century Surrey, it is realistic to assume that a significant proportion of the accusations brought to the notice of local magistrates never went further than this. It was not essential for the prosecutor to arrange for this preliminary interrogation, as it was possible for the case to be brought before the Grand Jury without any such intermediary, in a process which later

came to be called the 'voluntary bill'. Strictly speaking, there was no need to call in a magistrate, even for a felony (42). The weakness of this procedure, however, is that it was not possible to obtain recognisances for the appearance of the defendants or obtain the mittimus necessary to obtain their incarceration.

Where the Justice of the Peace committed the case for trial at Quarter Sessions or at Assizes, recognisances of ten or twenty pounds were taken for the plaintiff and the witnesses, to ensure their attendance at the sessions. Bail was allowed to the defendant if he could furnish the necessary financial guarantees. Bail was not, however, automatically granted, and indeed, it has been shown that it was rarely the case for property offences (43). If bail was not granted, the accused had to wait in prison for the session, which, in the case of unlucky defendants, could mean a spell of several months, especially if the offence could only be tried at the Assizes. The criminal jurisdiction of the court of Quarter Sessions began to be restricted by law from about 1550, when the more serious offences were reserved for the courts of Assize (44). The jurisdiction of the courts of Quarter Sessions and Assizes, which had operated originally in parallel but independently, was graded and the Assizes became the courts of appeal for some of the Quarter Sessions decisions. (There was no appeal, strictu senso, in criminal cases until the

nineteenth century.) From that time onwards, both courts could judge certain offences of moderate gravity, in particular various types of theft of which J.S. Cockburn has made a particular analysis:

> ... The incidence of technically petty and grand larceny is erratic enough to suggest that the justices may have adopted a common sense course by sending many thieves, and indeed many minor offenders, for trial at whichever came first, quarter sessions or assizes. (44)

By the beginning of the eighteenth century, though, it had become rare for capital offences to come before the court of Quarter Sesions.

(b) The criminal process

As we have seen, at the beginning of our period, the first afternoon of the Surrey sessions was devoted to the trial of criminal offences. Traditionally it was also at this stage that the petty and high constables were made to take their oaths. The grand jury was then asked to return its judgement on the bills of indictment which it had considered in the morning. The grand jury used two formulae to return its verdict. A bill could either be 'true' or 'found' ('billa vera' until 1731 when the use of English was introduced to the legal procedure) in the cases which they thought warranted investigation, or 'not found' ('ignoramus') in the cases for which insufficient evidence

had been presented. In the case of the not found bills, the prosecution stopped there, although the plaintiff could introduce a second accusation at this or at another sessions. This could become serious where imprisonment was involved, and Joseph Williams, a Southwark weaver, kept in gaol for renewed periods by these means could only petition quarter Sessions that relief be granted him on those grounds (46). A rather curious example of renewed accusation survives in the Surrey records for our period. At the Michaelmas sessions of 1758, Michael Constable accused William Hall and Richard Stilwell, both of Dorking, of having killed and taken away 1300 coneys from his property, but this trial was adjourned sine die at the request of the plaintiff (47). At the following session, Epiphany 1759, two new bills of indictment were introduced, one against Hall, Stilwell and a third man, John Swann, and a second bill against Hall, Stilwell and a fourth person, George Mason (48). Both indictments were quashed at the Epiphany adjournment, when a fourth bill of indictment against Hall, Stilwell and Mason was introduced. The bill then reached the grand jury, which returned a 'not found' verdict. This example is not typical, however, both because of the determination of the plaintiff, who must have realised that his evidence was insufficient, and because it was relatively unusual for a grand jury to reject a bill. John Beattie has calculated that for crimes against property judged by both Quarter Sessions and Assizes in Surrey for the period 1736-

1753, between 69% and 91% of bills for offences which could incur the death penalty were found true, and between 74% and 88% of bills for offences which did not (49). A study of the Surrey Grand Jury verdicts for all types of crimes for the periods 1727-30 and 1757-60 confirms these findings for the later period, when 66% of the grand jury returns were 'true bills' (50). For the earlier period, however, the figure is significantly lower.

GRAND JURY RETURNS

	1727-30	%	1757-60	%
True bill	43.26		65.96	
Not found	43.26		30.89	
Cessat Processus	1.41		1.04	
Other	12.05		2.09	

Thus at the beginning of the reign of George II, on all indictments, defendants were as likely to be released at that stage in the proceedings as they were to face a prosecution to the end of the process. Once the Grand Jury had returned a few, if not all, of its bills, the Clerk of the Peace would then ask for the first defendant who would either be brought foreward by the prison staff, or called for by the court cryer (51). In certain counties felonies would be tried first. The clerk would then ask the defendant to plead and in the case of felonies used the following ritual formula:

> What sayest thou? Art thou guilty of this felony whereof thou standest indicted, or not guilty? (52)

If the defendant pleaded not guilty, a second dialogue,

as traditional as the first would then take place:

> How will thou be tried?
> By God and Country.
> God send thee a good deliverance.

In his essay on the criminal procedure, J.H. Baker noted that this was the only acceptable formula, that a synonymous sentence would be interpreted as a refusal to plead (53). Defendants who refused to plead were submitted to the terrible torture of 'peine forte et dure', which entailed starving and heaping an increasingly heavy load on the unfortunate person until death ensued (54).

If the accused pleaded guilty, the plea was noted.

As soon as ten or twelve cases were ready for trial, (that is, ten or twelve cases where the defendant had pleaded not guilty), the clerk would ask the sheriff to return a petty jury. The law on challenges was complex, but roughly speaking, defendants could object to up to twenty jurors, provided they did so before the jurors had taken their oaths. After the swearing of the petty jury, the clerk would read out an abbreviated form of the indictment; the witnesses for the plaintiff, then those for the defendant would be examined; the accused could then make a statement; and, finally, the deputy Custos Rotulorum would summarise the proceedings.

At the beginning of the eighteenth century, the petty jury was expected to return its verdict on several different cases at once: it listened to the proceedings of ten or twelve cases one after the other and would then consider its decision for each case. This clumsy procedure was reformed in the course of the century. In 1738, several newspapers noted the changed procedure at the Old Bailey, where the Middlesex and London juries returned their verdicts at the conclusion of each case from that date onwards (55). Judging from the elliptical notes entered in the draft minute books for the Surrey sessions, it seems that a similar change was introduced at roughly the same period. Certainly, by 1745, the Surrey jurors returned their verdict at the conclusion of each trial. It was rare for a jury to retire to reach a decision, and this only happened when a case was particularly intricate or difficult. When this happened, a special bailiff was sworn in and he became the only contact between the jurors and the outside world. A second petty jury could then be sworn in to take over where the first had left off.

For the trial of misdemeanours, the procedure differed slightly. As with felonies, the accused was asked to plead guilty or not guilty and in cases where a plea of not guilty was entered, the defendant could 'traverse' the accusation, or in other words have the trial deferred to the ensuing session. In theory, therefore, the trial of felonies could

not be deferred, but, as Burn noted in his manual, this rule was often broken (56). This apparently illogical distinction can be explained by a number of practical reasons. In the case of felonies, the accused was often refused bail, so that it was imperative that the trial should happen soon. On the other hand, since misdemeanours often included the neglect of administrative duties such as the repair of roads, allowing a delay often gave the chance to the surveyors of the parish involved to make good their default and obtain a withdrawal of the charge.

As the eighteenth century wore on, justices and legal commentators were increasingly likely to accept and recommend the delaying of the trial of more serious accusations. At each sessions, therefore, after having dealt with new indictments, the court would turn its attention to those indictments left over from the preceding sessions.

The trial of misdemeanours differed from the trial of felonies in other respects: a misdemeanour trial could take place even if the plaintiff did not appear in person; the accused could not object to petty jurors; and both the plaintiff and the defendant could be represented in the court by lawyers. (This had not been the case for felonies in the seventeenth century, when legal representatives were not acceptable to the court, a ruling which was gradually superseded in the course of the eighteenth century) (57).

When dealing with misdemeanours, the court often encouraged the parties involved to settle amicably. Burn suggests that in this case, the bench advised the accused to approach the plaintiff, who, once some agreement had been reached, would make a public statement to that effect. The court would then impose a nominal fine on the accused. In cases of misdemeanour where agreement could not be reached, Burn further advised the accused to plead guilty, to avoid having to pay the various fines and expenses involved in a contested trial (58).

The verdict of the court, was, according to legal custom, to be returned at the very end of the sessions, but it seems that in certain cases it was given at the end of the trial. Sentences for misdemeanours, the type of crime most commonly met with in sessions, were either a fine or whipping, which could be administered privately or publicly. Clearly there was some opprobrium attached to having been punished publicly, and, for instance, when in 1732, Francis Walton was found guilty of having stolen a sack of coals out of a lighter, he petitioned the court that his punishment be inflicted in private, as his business might otherwise suffer (59).

(c) The Surrey indictments, 1727-1760: analysis and criticism

The study of indictments has given rise to a number of interesting articles, which investigate the reliability of the information contained in indictments and the legitimacy of deductions based on these sources. Clearly, what one might legitimately adduce from such apparently attractive series of records as indictments does not necessarily correspond to what one might be hoping to extract from them. The articles have ranged from analyses of the technical pitfalls of too narrow an understanding of the text of the indictments (60) to broader introductions to the careful use of these sources (61). The case for such studies, however tentative they may have to be, is easy to make. Contemporary sources, which held that law and order were breaking down, often cited by later historians as conclusive proof of a worsening atmosphere, are not reliable since they reflect the subjective opinion of a small propertied sector of the community. Indictments are the crux of a process which was experienced mostly by people who did not have a vested interest in stability. Nevertheless, the technical problems presented by statistical analyses are important and an awareness of the difficulties involved is essential. The most important single problem relates to the impossibility of establishing a 'global' crime figures - that is to say all crime, not simply prosecuted crime. In his article on

the subject, J. Beattie suggests that provided that the prosecuted crime figure remains constant in relation to the total crime figure, studies based on the study of indictment can yield useful results. He proceeds to investigate factors such as levels of prosecutorial activity, changing administrative procedure, varying zeal of the magistracy which might have altered that proportion and feels able to conclude:

> The question is by no means closed, but I would argue that the influences discussed in this paper are much more likely to have slightly retarded or exaggerated changes in the number of indictments coming before the courts than to have caused them. This is not to say that changing indictment levels is a very sensitive guide to changes in criminality. Over the long term especially, the comparison is fraught with difficulty. But so long as we can be satisfied that factors other than crime itself are not having a massive affect [sic] on the data, comparisons even over the long-term are hazardous rather than invalid. (62)

Let us return to eighteenth century Surrey, then, look at the indictments presented to the court between the years 1727-30 and 1757-59 and consider what ~~what~~ may be usefully concluded from such a comparison. The first, perhaps surprising, fact and one which is not made explicit in Beattie's work, which is also based on Surrey sources, is that the total number of indictments presented annually to the Surrey Bench falls dramatically in the period under review: from 529 in 1727 to 85 in 1759.

INDICTMENTS RECORDED IN SURREY PROCESS BOOKS
1727-1760

	Epip	East	Mids	Mich	Total
1727	110	126	63	158	557
1728	160	122	85	162	529
1729	142	88	57	139	426
1730	140	97	64	140	441
1731	136	113	87	147	483
1732	128	66	77	126	397
1733	107	66	85	115	373
1734	118	59	41	93	311
1735	85	83	49	89	306
1736	118	95	103	82	398
1737	80	39	102	88	309
1738	110	34	40	75	259
1739	117	54	51	75	297
1740	75	64	44	59	242
1741	40	40	61	72	213
1742	75	36	26	74	211
1743	53	66	61	52	232
1744	57	28	26	45	156
1745	27	40	22	29	118
1746	85	7	33	25	150
1747	28	55	23	33	139
1748	36	82	32	38	188
1749	47	57	35	46	185
1750	53	65	44	38	200
1751	69	57	35	49	210
1752	65	61	51	52	229
1753	78	28	37	44	187
1754	65	21	44	36	166
1755	49	5	16	17	87
1756	22	12	6	23	63
1757	41	13	19	9	82
1758	53	9	8	29	99
1759	52	7	11	15	85
1760	46	0	12	8	66

Given the objections summarised above, these figures are clearly difficult to interpret. Yet the decline is so significant as to deserve an explanation, particularly since no compensatory move can be traced in the work of other courts. On the contrary, a decline in activity both at Assizes and at Petty Sessions is noticeable and we are left with a major discrepancy to account for. As the table below

shows, these are not freak results, but part of a general trend, which is not fully reversed until 1825, when the population had increased, and other factors had altered quite considerably:

QUINQUENNIAL INDICTMENT TOTALS
SURREY PROCESS BOOKS, 1675-1825

1675	451
1680	468
1685	408
1690	-
1695	340
1700	304
1705	231
1710	195
1715	291
1720	291
1725	379
1730	441
1735	306
1740	242
1745	118
1750	200
1755	87
1760	100
1765	172
1770	145
1775	116
1780	120
1785	181
1790	204
1795	147
1800	245
1805	251
1810	264
1815	305
1820	415
1825	547

The beginning of an explanation is provided by an analysis by type of bills of indictment for the period under review. For the purposes of this summary analysis, the offences described in the indictments have been divided into the following four categories:

> TYPE 1: Property crime, including burglary, grand larceny, petty larceny, fraud, breaking and entering, receiving stolen goods, game laws offences and other property offences including trespass.
> TYPE 2: Crimes of violence including assault, riot and assault, riot, rape, attempted rape, sodomy, attempted sodomy.
> TYPE 3: Public nuisances including unmended highways and bridges, unfenced gravel pits, officials neglecting their duty, citizens failing to help officials or to perform their allotted duties.
> TYPE 4: Regulative prosecution including trading offences, sabbath breaking, gameing and drinking offences, environmental offences.

From this the following table may be drawn:

INDICTMENT TOTALS, EXPRESSED BY TYPE OF CRIME

	1727-30		1757-59	
	Total	%	Total	%
Type 1	44	5	123	43
Type 2	162	17	88	31
Type 3	141	14	33	11
Type 4	634	65	44	15

(The incompleteness of certain indictments led to their exclusion from this analysis. This accounts for the slightly differeing total between this and the two preceeding tables).

A marked decline in the number of indictments for regulative prosecutions as well as an increase in property crime might be inferred from these figures. Beattie's research on the pattern of indictments of property crime in Surrey between 1736 and 1753 reveals a more complex picture:

> The pattern in the county as a whole (and of course the court calendar did not divide the accused into 'rural' and 'urban' categories) was

> largely determined by the urban parishes, in which almost three-quarters of the offences occured: that is, a moderately high level in the four years 1736-9 (in which 120 accused came before the courts each year on average); a steady decline during the war to a low point of just over fifty in 1746 and an annual average of eighty four for the war years as a whole; and a strong and rapid increase after 1748 to a peak of 182 in 1751 and an annual average of 141 in the five years 1749-53. (63)

(The use of the word 'offence' rather than a more appropriate term such as 'prosecution' is unfortunate.) There are difficulties attached to Beattie's interpretation of the facts. Firstly, to describe as 'steady' the erratic decline depicted on his chart is disconcerting. Secondly, to assert that the war was the prime reason for the drop in prosecutions, without taking into account the changes that were occuring in the court's administrative practice is worrying, particularly in the context of sharply dropping indictment totals. As Beattie himself pointed out in his general note on indictments it is only if we can be sure that the percentage of recorded crime had remained constant it might be possible to suggest that, over the reign of George II, patterns of criminal behaviour had changed quite markedly and that legislative redefinition of criminal behaviour, which in the course of the eighteenth century increasingly emphasised property crime, had an impact on the sort of crime punished in the courts. In practice, such a clear-cut conclusion is impossible, for a number of reasons.

The first relates to the problem of the increased efficiency of the court during our period. Beattie's suggestion that although it occurred, it did not happen sufficiently rapidly to have a distorting impact, is not convincing. For Surrey, this may be deduced from the 'not entered' pleas. These are indictments for which no plea was entered either because the defendant or the accused did not bother to turn up for the trial. (It could have been a clerical omission, but, from other evidence, it is clear that Robert Corbett, the clerk of the peace at the beginning of the period, was, if anything, more conscientious than his successors.) A comparison of the pleas for the sample indictments early and late in the period under review gives the following figures:

PLEAS, EXPRESSED IN PERCENTAGES

	1727-30		1757-59	
	Total	%	Total	%
Certiorari	33	3	8	3
Cessat Processus	180	18	11	4
Dead	30	3	13	5
Guilty	307	31	48	17
Not entered	284	29	4	1
Not Guilty	142	14	191	66
Other	5	0.5	13	3

The implications of this table will be discussed more fully in Chapter six below, but it is worth noting here the important discrepancy which occurs in the 'not entered' pleas. As the court became more efficient, it had fewer abortive cases to deal with. By ensuring that cases which might be settled out of court were, by forcing prosecutors

to appear through the more consistent application of recognisances, by the more careful directing of constables, the magistrates were clearly able to concentrate on those issues which they thought more important.

There is a limit to this type of analysis: are historians really comparing like with like, when they compare incidences of theft, say, in 1727 and in 1760, or are they comparing a relatively minor infringement of the moral code of 1727 with an important one of that of 1760? In his study of nineteenth-century Black Country indictments, David Philips describes a more complicated version of the same phenomenon. His example, that of 'theft' of coal by the miners who worked to extract it is particularly striking (64). In the 1830's only a few mineowners prosecuted such behaviour systematically: thirty years later, it was much more frequently the object of prosecutions and almost all the local owners are represented among the plaintiffs. What had been considered to be a perquisite had become a crime within the space of a generation. Redefinition of criminal acts therefore make long term comparisons difficult, although it is precisely long term comparisons which will reveal any such 'redefinitions'.

What I am suggesting here is that the ways of looking at the evidence should be reassessed. There is no doubt, to my mind, that the traditional cursory investigation of

subjective literary sources could not supply us with reliable evidence. There is also little doubt that historians of the legal system have, until very recently, relied too heavily on the evidence provided by statutes and other official sources (pace Radzinowicz); although in that case, it seems that a more flexible approach might have yielded broader perspectives on the problem of definitions of criminal acts. Thus while the increasingly stiff penalties introduced to punish crimes of property have been painstakingly catalogued, very little time has been spent investigating crimes which were removed from the statute book at the same time. Yet to mention one example, eighteenth century rationalism removed witchcraft from its list of offences, a redefinition which, in theory at least, is as significant as the increasing importance of property offences. To get back to the more recent methods used in the field of crime patterns and behaviour, the findings of this thesis suggest that quantitative methods could be useful if they were used with a greater feel for the object of the exercise, or, in the words of Douglas Hay, the need to understand 'real' crime (65). The fact that, in his analysis of crimes against property between 1736 and 1753, Beattie failed to take into account the noticeable drop in indictments which occurred in Surrey has already been noted. His omission arises because he chose to concentrate on one form of offence only. While such a methodology enabled him to suggest correlations between war exigencies and crimes

against property and also to point out that during the war, reprieves of persons convicted of theft and related crimes were more likely than in time of peace (66), it distorts his assessment of the criminal work of Quarter Sessions, about which he nevertheless generalises in the conclusion to this article. The image of the court projected in his work is one of great harshness, each convicted person having to confront either transportation or whipping. In fact these two forms of punishment, though commonly used in connexion with property crime, are less frequently used by the court than fining. In the opening years of the reign of George II in Surrey as we shall see, 95% of convictions were fines - normally around a shilling - and, towards the close of the reign, fines were still the punishment for 55% of convictions. While there is no doubt that crimes against property were seriously punished, the reaction and behaviour of the bench should not be judged solely from the context of serious crime. A similar point might be made about the work carried out on breaches of the game laws. The considerable discussion of the issue both by eighteenth and nineteenth century commentators and historians today is not mirrored in the court records of the period under review. In Surrey, only 2 prosecutions for game laws offences are recorded in Quarter Sessions indictments for the period 1727-1730 out of a total of 981 cases. (Neither case was prosecuted to the end.) 10 cases are recorded in the 1757-1759 period, but this figure does not carry much weight, as from the middle

of the century, cases were also dealt with at Petty Sessions. The figure, however, does represent a significant proportional increase in the number of cases dealt with by the Court. Overall, the evidence for Surrey concurs with Munsche's general assessment that, in the first half of the eighteenth century, the upholding of the game laws did not occupy a significant amount of the judicial system's time, although the laws themselves were extensively discussed by contemporaries:

> Until the middle of the eighteenth century both the laws and their enforcement were relatively mild. (67)

Munsche advances a number of explanations for this, the first and most obvious being that landowners were expected to overlook reasonable breaches of the code by local farmers. As this attitude changed and gentlemen became more punctilious about their rights in law, so objections to the prosecutions grew, even from otherwise law-abiding people, In 1753, a group of Kent and Surrey farmers gave warning of their intention to start proceedings against 'Ungentlemen-like gentlemen that shall trespass wilfully on their lands', in retaliation against the prosecution of a Surrey farmer's son who had been caught coursing hares (68). It is significant that when a similar situation had arisen a few years earlier in 1738, on a warren which Thomas Lord Onslow was building up, Lord Onslow wrote a letter of complaint to

the offender but did not pursue the case at law (69).

Broader conclusions, although they look less sophisticated than neatly tabulated results are preferable. Thus, from the data looked at here, two important conclusions may be drawn. Firstly, as we have already seen, the court was becoming more efficient, in the sense that it was dealing more completely with the cases which came within its purview at the end than at the beginning of the reign of George II. Secondly, and more importantly, the type of offences dealt with by the court of Quarter Sessions in Surrey had changed quite markedly in the course of the period under review. From being a court which dealt predominantly with minor misdemeanours and imposed trivial penalties (the vast majority of cases in the early period ended with a nominal fine), it became one which dealt with more serious crime and handed down stiffer penalties more systematically than it had done in the early years of the reign. The following table illustrates the point:

	FINAL VERDICTS			
	1727-30		1757-59	
	Total	%	Total	%
Fines:	313	95	71	55
Prison:	0	-	4	3
Transportation:	0	-	28	22
Whipping:	12	4	21	16
Other:	4	1	4	3

In his work on the Surrey courts 1736-1753, which covers both Assize and Quarter Sessions trials, John Beattie traces this change very precisely to the end of the war. By 1752,

four adjourned sessions had to be held at Southwark to deal specifically with larceny cases. He also suggests that the patterns of verdict were not uniform:

> Juries were thus more anxious to convict when crime increased. Judges were also more inclined to hand out stiffer punishments. In deciding whether to grant reprieves to convicts, judges were influenced, as we have seen, by the circumstances of the crime and the character of the accused. But their decisions were also related to the level of crime. (70)

In a sense, it does not matter that we cannot tell whether a greater or smaller percentage of crime was being prosecuted in court. What is more important is that the court should have been perceived as doing its job more efficiently and that its powers of punishment should have been understood as being more threatening. The very nature of the court, its work and its processes were changing at a rapid pace in our period.

III The county business

The trying of criminal cases took at most about a quarter of the time of the whole sessions: the rest was devoted to the introductory arrangements and to the administration of county business. It should perhaps be emphasised that these two functions, the administrative and the judicial, were not divided temporally. County business could be and, in Surrey, often was, discussed during lulls

in the criminal process. The few attempts at segregating the various types of business of the court introduced in our period failed (71). This feature, which might strike us as being untidy, is significant. While it would be an exaggeration to suggest that Quarter Sessions was an administrative court which also dealt with a few criminal cases, it remains that by far the greater part of its sittings were taken up by discussions of administrative work.

Particular types of county business will be investigated in greater detail in the following chapters. What is being described here is the machinery of the court, the way it operated. Two mechanisms need to be described in this context: the appeal procedure and the use of committees of justices.

The court of Quarter Sessions could act as a court of appeal for administrative decisions taken by justices in Petty Sessions or acting on their own. In those cases, by the beginning of our period, it was usual for both the plaintiff and the defendant (often two parishes) to be represented in court by a lawyer. Difficult cases could be adjourned to a subsequent session and help could be sought from the Assize personnel in exceptionally tricky cases. Generally, though, the bench insisted that the procedure be followed before it could be troubled with problems. Thus in

1740, when Justices Thomas Woodford and Robert Hind could not decide on how to proceed in the case of a vagrant, John Cawte, and detained him in the house of correction at Guildford to be examined by Quarter Sessions, the court refused to do so and agreed that the two Justices should act 'as the act of parliament directs' and not trouble it with the case (72). Appeals against the poor or the scavengers' rates were, with appeals against removal orders, the commonest.

For certain work, the court preferred to appoint committees composed of either magistrates who could claim a particular expertise in a subject, or, in the cases of committees established to examine a particular place, a broken bridge perhaps, of JPs who lived in that area. These committees would meet between sessions, at places not always traditionally associated with Quarter Sessions (Epsom was quite often mentioned for instance) and report to the bench on the following sessions. Apart from the occasional reticent report entered in the court order book and a few stray survivals in the bundles, the proceedings of these committees were not formally recorded, a feature which must have hindered the establishment of committee routines. It has been suggested that business was increasingly delegated to committees and removed from public discussion (73). There is little evidence to substantiate this in the period before 1760 in Surrey. In any case, the committees could not take

decisions on behalf of the bench and only suggested possible courses of action. Towards the end of our period, the committee reports became fuller and a clearer picture of the work undertaken by these committees emerges. The bulk of the issues under scrutiny were routine. Committees were set up to examine the county baker's accounts or to investigate the state of county property or again audit the various treasurers' accounts. More unusual problems such as the investigation of underweight bread rations for the county prisoners, the repair of bridges at the charge of the county or the purchase of waste ground for the county, must have presented the Justices with more of a challenge. One of the better documented examples of a committee at work is that set up in 1759 to inquire into the passing of vagrants in the county. The committee met twice between the sessions, the first meeting being poorly attended, much to the annoyance of the two Justices who did turn up and who recorded their feelings thus: 'they wished a matter of so much consequence had been honored with the attendance of more of the said committee' (71). Of greater interest is the quite scientific approach which the committee adopted to look at the problem. It first endeavoured to collect reliable data upon which to base its recommendations and painstakingly enumerated the vagrants passed in the year 1757, taking especial note of persons passed more than once. It is also interesting to note that the report was read in open court at sessions, which suggests that the more

important administrative issues at least were discussed publicly by the bench, even if no outsider was allowed to contribute to the debate. Similarly financial matters certainly were both frequently and openly discussed by the court, and it might be appropriate to turn to them next.

CHAPTER FOUR: Financial and economic responsibilities of the court.

Broadly speaking, the court of Quarter Sessions in the eighteenth century had three main types of economic and financial responsibilities: the precepting and levying of the rates, the maintenance of county property (roads, bridges, prisons and houses of correction) and the general supervision of daily economic activity and conditions of the inhabitants of the county (the price of food, trading practices, fairs and wages).

I The rates

The principles upon which rates, the basis of local taxation in England in the eighteenth century, were developed, are to be found in Tudor Poor Law legislation. The clear distinction which arose between county and parish functions as a consequence of Tudor legislation led to the designation of two officially separate types of rates, the county and the parish rates. By the eighteenth century, the basis for the assessment of the parish rate was enshrined in very different local customs and traditions, although land ownership usually provided the starting point upon which the assessment was worked out. With the county rates, the customary methods of assessments were possibly even more varied. With a few exceptions, such as the 1532 County Gaols

Act, legislation seldom specified the basis on which the county rates should be levied. County assessments could be based on real valuations, on fixed divisions throughout the county, or on scales of relative proportions. A few counties preferred to levy a county poor rate. Only a few counties (of which Surrey was one) based their assessments on property valuations (1).

(a) The parish rates

Money needed for parochial uses was raised within the parish as it was needed. Thus the cleaning and maintenance of parish roads and streets was covered by a parish rate. From early on, the poor rate, partly because it seemed very large, and partly because it was generally supposed to be inefficiently administered and hence the subject of complaint, was commonly acknowledged as the most important parish rate. Contemporary newspapers rehearsed the essential points of the debate about the parish rates and these bear repetition here as they reflect very general preoccupations. The ratepayers' complaints, which are enumerated in the December 1744 issue of the Gentleman's Magazine (2), might be summarised in the following way:

(i) The parish officials responsible for the levying of the rate (the churchwardens and overseers) were relatively poor people who were often tempted into

embezzling these public monies.

(ii) The rate was unequally distributed among ratepayers. Since it was easier to collect a large sum from the single occupier of a large house than it was from the numerous inhabitants of crowded tenements, it was suggested that substantial property owners paid a proportionally larger amount of the rate than they should have. The disporportion was further exacerbated by the fact that landowners were more heavily rated than merchants whose capital was not invested in land, the basis on which rates were assessed (3).

(iii) Although appeals against the assessments could be brought before Quarter Sessions, the court's brief was rather restricted, as it dealt only with the fairness of individuals' assessments in relation to each other.

It is difficult to establish the validity of these complaints. The law of 1744 (4), which empowered ratepayers to investigate the rate accounts, did not stifle adverse comment on the venality of officers and the inaccessibility of their accounts, although attempts at putting the issue in perspective were not unknown. Witness the following extract, published in the same magazine, in October 1751:

> Perhaps the common complaint of the misapplication of parish money may not be so well grounded as my

> correspondent imagines. Every payer in a parish has an undoubted right to inspect the accounts of the several officers of the parish to which he belongs at a public vestry (...) But nothing can be more unreasonable to urge, that because a great deal of money is raised for necessary uses, much of it must be squandered on trifling occasions. (5)

A random check of the accounts of twelve Surrey parishes during our period shows that of these, seven had regular audits, and three more had occasional audits (6). How significant even this minimal check was may be questioned, as Charles Marshall does in his study of the accounts of Cheam parish:

> The books were taken to Croydon once a year to be audited and signed by two Justices of the Peace. The auditing of the books seems somewhat perfunctory, for there are many mistakes in the accounts that passed the auditor, chiefly money received (for rates or otherwise) being put down among the disbursements. On one occasion, however, in May 1750, the Justices refused to sign the accounts. (7)

Clearly there was scope for fraud.

The impeccably kept rate assessment books for the parish of Chertsey five a good idea of how the rates were made. Money was raised for poor relief, for mending the parish roads and in answer to the county precepts. There was little attempt at budgetting in advance of the precept and the accounts reflect this lack of preparedness (8):

CHERTSEY PARISH RATE 1727-1758

	Rate 1	Rate 2	Rate 3	Rate 4
1727	141.09.00	142.11.00	139.14.00	
1728	134.14.10	142.14.00	142.00.00	142.17.06
1729	142.07.09	141.12.09	141.04.03	142.02.06
1730	142.16.06	143.06.03	141.16.06	142.19.00
1731	283.02.00	141.09.00	141.15.00	
1732	141.15.00	141.06.00	141.03.06	139.17.03
1733	140.04.00	141.01.03	141.01.03	141.04.03
1734	141.08.06	141.07.03	141.05.03	
1735	140.10.00	140.04.06	140.04.06	140.09.03
1736	140.02.06	140.03.06	140.09.00	
1737	140.05.09	140.07.03	140.03.03	
1738	139.14.03	139.05.06	138.18.03	
1739	139.03.09			
1740	138.11.03	138.06.03	138.10.09	
1741	278.10.06	278.13.00		
1742	138.16.00	139.01.00	278.14.00	
1743	278.11.06	277.02.06		
1744	276.08.00	277.13.00		
1745	275.12.00	277.05.06	138.01.06	
1747	274.08.06	274.10.00		
1748	274.09.06	275.03.00		
1749	273.04.00	266.10.01		
1750	280.17.09	271.04.04		
1751	272.16.00	137.01.06		
1752	409.17.06	273.06.03		
1753	274.19.03	412.03.07		
1754	274.13.09	273.16.09		
1755	274.16.05	313.13.02		
1756	275.04.04	273.11.01		
1757	278.15.07	278.16.01		
1758	277.00.00			

Although separate application to Quarter Sessions was necessary for parochial highway rates, it seems to have been the practice in most parishes to keep a general rate book rather than the separate and clearly labelled different rate books which became common in the nineteenth century. There is no evidence of formal accusations of embezzlement by local officials in Surrey in our period, although a number of indictments survive against negligent ones. Perhaps proof

of misappropriation of a kind that would be accepted in court was so difficult to come by that the task of accusation was not undertaken. (It may be that accusations for the negligent keeping of accounts books represent accusations based on suspicions of worse crimes.) Appeals to Quarter Sessions on the apportionment of rates were far more common than accusations of negligence by officers.

(b) The County Rates

Before 1739, the purposes to which a county rate was going to be put had to be specified in the precept to the parish authorities which actually levied the rate. There was thus, say, a rate for bridges, another for prisoners, a third for county roads and so on. Each was collected separately. This system necessarily caused much confusion, which was perhaps exacerbated by the fact that these rates could, but not always did, have a separate treasurer appointed to account for them, and more importantly, could be, but not always were, collected in fractions. In that year, however, parliament introduced an important change to the system. It is not surprising that the 1739 Act which allowed for the compounding of all county rates was introduced on the petition of the most hard-pressed county of the period, Middlesex. The petition submitted by the Middlesex bench to the House of Commons illustrates the technical difficulties encountered by a county when one of

its rates - that levied for Brentford Bridge - was removed by writ of certiorari to one of the higher courts: although the county won the case, the two years' delay caused by the removal of the precept to the King's Bench, meant that by the time that the collectors got round to the ratepayers, so many had moved that the rate did not raise anywhere near as much as the authorities had anticipated. The petition further complained that since the bridge had not been repaired in two years, it was in a worse state and therefore more expensive to repair. The whole issue was referred to a committee of the House of Commons, whose spokesman, Robert Hucks, presented its findings on 16 March 1738/9. The report went into the vicissitudes of the legislation relating to county rates from the Act of 22 Hen VIII onwards and these may be summarised under four heads. Firstly, the mechanism for the collection of rates of all types was never set out by legislation; secondly, the penalty for the punishment of negligent officials (set at forty shillings) was too small to be effective; thirdly, since the county was not allowed to raise a rate for the repair of a prison larger than the amount estimated by the workmen, any deficiency in the collection, and there were many, could not be found; finally, counties were not empowered to precept money for the repair and maintenance of houses of correction, as the act of 7 Jas I provided for the initial costs only.

It is perhaps significant that what amounted to quite a

major reform of the local government accounting system should have been added to the statute book without the slightest difficulty and at the first attempt. From 1739, the county rate should have been precepted once a year, and its collection spread over the year.

The table below enumerates the rates which were included within the meaning of the act and, thereafter, the type of expenditure legitimately covered by the county rate. One may note how many new items of expenditure were added during the reign of George II. Recognition of the professional role of certain county officials such as the county treasurers and the coroners becomes apparent. The reform of the coroners' pay is interesting in the way it came about (14). In 1743, the House of Commons received the petitions of the coroners of 17 counties, complaining of the inadequacy of their pay (15). This well-orchestrated demand was eventually successful and from 1752 coroners were entitled to 20 shillings per inquest and 9 pence per mile.

Rate	Statute
a. County bridges, highways, salaries of surveyors of bridges	22 Hen VIII c.5 1 Anne st c.18
b. County gaols (buildings and maintenance)	11 & 12 Will c.19
c. Salary of master of the Houses of Correction and relief of sick prisoners	7 Jas c.4
d. Relief of prisoners in King's Bench and Marshalsea prisons, of poor hospitals in the county and of those that sustained losses by fire, water or at sea	43 Eliz c.2
e. Relief of prisoners in county gaols	14 Eliz c.5
f. For setting prisoners on work	19 Chas II c.4
g. Treasurers' salary	12 Geo II c.29
h. Charges attending the removal of the county rate by certiorari	12 Geo II c.29
i. Money for purchasing land at the ends of county bridges	14 Geo II c.33
j. charges of building and repairing the Houses of Corrections	17 Geo II c.5
k. Apprehending, conveying and maintaining vagabonds	17 Geo II c.5
l. Soldiers' carriage	Yearly acts
m. Coroners' fees	25 Geo II c.29
n. Charges of carrying people to the goal or the houses of correction	25 Geo II c.3
o. Prosecuting and convicting felons	25 Geo II c.36 & 27 Geo II c.3
p. Prosecuting persons plundering shipwrecked goods	26 Geo II c.19
q. Transporting felons	6 Geo I c.23
r. Bringing insolvent debtors to court if they are not able to pay	3 Geo II c. 27
s. Charges of carrying apprentices bound to sea service, to the port of their master	2 & 3 Anne c.6

Important though the act of 1739 was, its potential advantages were not fully exploited by the local authorities. No planning and very little budgetting took place, and the amount collected in rates varied considerably from year to year, as the following table shows:

SURREY COUNTY RATE 1727-65

DATE	TYPE	% IN £	AREA	TOTAL
Easter 1727	1,2,3			319 05 10
Easter 1728	1,2,3			319 05 10
Easter 1728	4	1/4 d		343 14 02
Easter 1729	1,2,3			319 05 10
Easter 1730	1,2,3			319 05 10
Mids 1730	4	1/4 d		343 14 02
Epiph 1730/1	5	1/4 d		343 14 02
Easter 1731	1,2,3			319 05 10
Mids 1731	6	1/2 d		687 08 04
Easter 1732	1,2,3			319 05 10
Epiph 1732/3	4	1/4 d		343 14 02
Easter 1733	1,2,3			319 05 10
Mich 1733	7	1/4 d		343 14 10
Easter 1734	1,2,3			319 05 10
Easter 1735	1,2,3			319 05 10
Easter 1735	4	1/4 d		343 14 02
Easter 1736	1,2,3		A	189 18 11
			B	130 06 11
Mids 1736	4			314 14 02
Easter 1737	1,2,3		A	189 18 11
			B	130 06 11
Easter 1738	1,2,3		A	189 18 11
			B	130 06 11
Easter 1738	4	1/4 d		343 14 02
Easter 1739	1,2,3		A	189 18 11
			B	130 06 11
Mids 1740	8	1/4 d		343 14 02
Epiph 1740/1	8	1/2 d		687 08 04
Mids 1741	8	1/4 d		343 14 02
Epiph 1741/2	8	1 d		1374 16 08
Easter 1743	8	1/2 d		687 08 04
Easter 1744	8	1 d		1374 16 08
Epiph 1744/5	8	1/2 d		687 08 04
Easter 1746	8	1/2 d		687 08 04
Mich 1746	8	1/4 d		343 14 02
Mids 1747	8	1/2 d		687 08 04
Easter 1748	8	1/2 d		687 08 04
Easter 1749	8	1/2 d		687 08 04
Epiph 1749/50	8	1/2 d		687 08 04
Mids 1750	8	1/2 d		867 08 04
Epiph 1750/1	8	1 d		1374 16 08
Epiph 1752	8	3 d		4123 06 00
Mich 1755	8	1 d		1374 16 08
Easter 1757	8	1 d		1374 16 08
Easter 1758	8	1 d		1374 16 08
Easter 1759	8	1 d		1374 16 08
Epiph 1760	8	6 d		8046 10 09
Mich 1761	8	2 d		2681 10 03
Mids 1762	8	1 1/2 d		2010 02 08
Epiph 1764	8	1 d		1340 05 01
Epiph 1765	8	1 d		1340 05 01

KEY: A: Eastern & Middle Division
B: Western Division
1: rate for pensioners (43 Eliz c.3)
2: rate for prisoners in county gaol (14 Eliz c.5)
3: rate for prisoners in King's Bench (45 Eliz c.2)
4: Vagrant's rate
5: rate for the repair of Burford Bridge
6: rate for the repair of the county gaol and the House of Correction at Southwark
7: rate for the repair of Chertsey Bridge
8: undifferentiated rate

These fluctuations do not mask the general tendency for the amount precepted to increase. Excluding the aberration of 1760, probably caused by the large sums required by the introduction of the new procedure for the passing of vagrants, the average precept for the last ten years of our period is four times that for the first ten. Given this increase, it is not surprising that the court should have several times attempted to reduce its expenditure, although the success of these economy drives is not evident.

(c) The control and reduction of expenditure.

(1) Veterans' pensions

The money raised for the maintenance of wounded and disabled soldiers and sailors represented a fairly large proportion of the annual county rate. Between 1727 and 1739, from which date the proportion of money devoted to each purpose was no longer differentiated in the accounts, every

year at the Easter Sessions, a sum amounting to over £130 was precepted for the war veterans' pensions. This represented as much as roughly one half the annual rates in certain years or as little as one tenth in others, but nevertheless remained a substantial item of expenditure. At Michaelmas 1728, the court set up a committee of Justices to investigate the income of the county pensioners (17). The committee, composed of Charles Selwyn, Maltis Ryall, Samuel Kent, Samuel Palmer and James Theobald, reported at the same sessions and returned a list of the pensioners who, in the view of the committee, did not deserve their pension.

Admission to a pension was the outcome of a cumbersome procedure, as the applicant was first admitted to a waiting list once his claim had been accepted as a genuine one, and only received his pension when one of the existing recipients had died or been removed from the list. Supplicatory letters were sent to the court on the death of pensioners. Injuries could be very ancient - indeed most of the people admitted to a pension in the early part of our period had been wounded, some quite horribly, in the reign of Queen Anne. The average pensioner was granted four pounds per annum. Appeals against the decisions of the 1728 report were however successful in a number of cases, perhaps because the presence of the disfigured veterans in court disturbed the Justices on the bench. At any rate nine pensioners were restored to their pensions in the two

sessions which followed the report. One may be forgiven for thinking that Justice Selwyn was particularly irritated by this issue, for in 1732, the Order Book recorded:

> Whereas Charles Selwyn Esq. hath desired an order of this court for the County Pensioners to attend in person to be examined whether fit to be continued in their pensions or not it is ordered by this court that the under-treasurer of this county do send them notice to attend the next Quarter Sessions accordingly. (18)

The matter did not arise again, however.

(2) Vagrants' rate.

A second and quite sizeable item of county expenditure was the vagrants' rate. Between 1727 and 1739, the sum of £343 was raised six times, which makes it roughly comparable to the maimed soldiers' rate. The passing of vagrants will be described below in chapter five and it is only necessary to mention here areas where savings were attempted. First, in 1745, the bench tried to ensure control over the amount of money spent on the removal of individual vagrants by stipulating how constables were to set about the problem. A committee of Justices reported that the following allowances were to be paid:

Travel:	bycart,not more than 10 people	12 pence per mile
	by horse, 1 person	6 pence per mile
	by horse, 2 persons	9 pence per mile
	able person on foot (not more than five miles)	4 pence per mile

Maintenance: for each vagrant, not exceeding 6 pence a day
to the Clerk of the Peace,
for examination of order &
duplicate 2 shillings (19)

As we shall see, this order was not properly implemented and towards the close of our period a system of contracted removals was introduced to replace this inefficient use of resources and constables' time.

(3) The county hospital provision

The Lock hospital in Newington, probably founded in the twelfth century, originally received lepers as its inmates. In the eighteenth century, when it was no longer needed for the purpose, it switched to specialising in venereal diseases and the term Lock Hospital came to be used of all such hospitals (20). Up to Easter 1745 the county would pay ten pounds towards the salary of the surgeon at the hospital, but in that year the surgeon was asked to appear before the court to show cause why his salary should not be discontinued (21). His explanation must have failed, for from then on references to his payment disappear from the court books. It would follow, therefore, that, as the purpose of the hospital changed, so its use to the county disappeared and, with it, the willingness to contribute to its upkeep. In January 1727/8 there already seems to have been some dispute as to the necessity of this item of expenditure (22). In the event, the Surrey authorities only anticipated (or contributed to) the closure of the hospital

by a few years, as it was dismantled in 1760.

Support for the Guildford Spittle, the only other hospital mentioned in the county order books of the period (if one excludes the provision for sick prisoners), continued (23). Judging from the terms used to cover the payment, however, the county was underwriting the cost of keeping specific patients there, for whom it felt some responsibility, rather than acknowledging the use of such an institution to the community. This attitude, which is much more in keeping with the general outlook of the bench, makes the support of the Lock all the more interesting while it lasted.

II The County Gaol and Houses of Correction

By the eighteenth century, the Surrey bench had assumed the Sheriff's mediaeval responsibility for the maintenance of the county gaol, and in addition for two, later three, houses of correction at Guildford, Southwark and, from 1760, at Kingston upon Thames. There were, however, other prisons within the boundaries of the county: the King's Bench, the Marshalsea, the Clink, the Borough Compter and Guildford and Kingston debtors' prisons. Their maintenance, like the maintenance of numerous parish lock-ups, did not directly concern the bench, except for the King's Bench and the Marshalsea, to which Surrey, like all other counties,

contributed a rate (24).

(a) The County Gaol

The mediaeval county gaol was housed in Guildford Castle, where it remained until early in the sixteenth century (25). It was then moved to Southwark, to the site of the White Lion Inn, from which it retained the name throughout the sixteenth and seventeenth centuries. Little is known about the move and, though it is mentioned in its new setting from 1513 onwards, it does not appear on a mid-century map of Southwark (26). The premises were not owned by the county and, as was common in other places at the time, was run as a profit making concern. Conditions were so bad in the prison that the county authorities were moved to try to obtain the Clink for use as the county gaol in 1638. This attempt failed and in 1654 trustees for the county purchased the White Lion, but did not improve the premises and immediately released the property to private entrepreneurs (27). By 1666 it was so ruinous that the Sheriff was compelled to incarcerate the prisoners committed to his custody in the Marshalsea prison (28). This situation prevailed well into the reign of George I and calendars of prisoners, that is, the lists of prisoners due to appear before the Surrey Sessions, clearly show that until 1724 the Marshalsea was to all intents and purposes used as a county gaol. In 1721 the county was indicted for having no county

gaol and this jolted the Justices into action. Work was started on the New Gaol - as it was to be called throughout the eighteenth century - and it was finally opened in 1724. At the beginning of our period, therefore, Surrey was in a fortunate position with regard to its county gaol. Not only was it a new building, but it was owned by the county and justices were in full control of the administration of its buildings and the care of its inmates (29). In practice, however, the situation was rather bleak. As early as Easter 1728 the court was investigating the need for major repairs at the gaol (30) and matters worsened over the period. So much so that in 1750 a report of justices recommended the purchasing of a new gaol and the old King's Bench prison was surveyed for that purpose. Nor did direct control by the justices lead to obviously better conditions for the prisoners. The multiplicity of court orders relating to conditions in the gaol clearly indicate that there was much wrong in its running. Complaints about the bread rations distributed to prisoners were investigated on a number of occasions. Fraud by the county baker was detected several times and led to his dismissal in 1729 (32). Bread rations were again investigated in 1741, when the high price of corn had effectively reduced the prisoners' allowance, which up to then had been calculated in money and not in weight (33). Other complaints concerned the irregular compiling of the calendars of prisoners by the keepers, the levying of fees to which the staff were not entitled (35) and the poisonous

smells which originated from the house of office of the gaol, whose vaults had to be periodically emptied for that reason (36). Not surprisingly, as in many other prisons, gaol fever was endemic. It reached epidemic proportions in the bad year of 1741 and in consequence a committee of justices was set up to investigate the crisis. Its recommendations included the creation of a hospital ward, but this seems to have been disregarded: the court was more concerned with establishing the responsibility for payment of the burials than the prevention of further outbreaks (37). Further evidence about the poor living conditions of the prisoners is provided by the appearance of an article in the Daily Gazetteer of 16 June 1752, written at the behest of the prisoners themselves, two weeks after the bench had agreed to a report which claimed that provision at the county gaol was adequate. The article prompted the court into examining Richard Jones, keeper at the county gaol, and the account of his examination is worth recording in full:

> This examinant saith that there has not been the gaol distemper in the Common Gaol of the county of Surry within these five years last past or thereabouts. And this examinant further saith that he never complained that there was any want of a new county gaol. And this examinant saith that he is acquainted with the state of several other common and county gaols; that the county gaol of Surry is more wholesome than Maidstone Gaol and Chelmsford Gaol and better than Sussex and that the gaol at Newgate is much worse. And in relation to an advertizement published in the Daily Gazetteer of Tuesday the sixteenth day of June last past called the petition of the unfortunate Tradesmen and others in the county gaol of Surry this examinant saith that the said advertizement

> was published by and came from the prisoners in the county gaol in Surry. (38)

Given the knowledge that the Justices undoubtedly had of the situation in the county gaol, it is interesting to speculate why so little was done to improve the conditions there. Sean McConville in his work on English prison administration suggests that '... the state of the prisons [was] justified by the theory of maximum deterrence' (39), that is to say that potential delinquents were likely, in contemporary opinion, to be deterred by the fate that they would encounter in prison. This explanation is borne out by an examination of the little which the Surrey justices were prepared to do for the prisoners in their custody. Significantly, it is only towards the end of our period that the bench begins to consider the welfare of its prisoners. In 1751 both a chaplain and a surgeon were appointed to minister to the prisoners in the county gaol. Leonard Howard was to assist prisoners condemned to death only: there was no suggestion that his function should include convincing the other inmates of the error of their ways:

> Whereas complaint hath been made to this court that the criminals in this county under sentence of death have for many years been destitute of a proper clergyman to prepare them for their untimely death which is of utmost consequence to those poor unhappy criminals as well as the great concern of all pious and well disposed Christians, this court doth therefore taking into consideration the great necessity there is of a proper person to attend them in their last moments and that there is no clergyman appointed to attend

> them under their calamitous circumstances doth orther [sic] that it be requested of the Reverend Leonard Howard of the parish of St George Southwark to attend the unhappy convicts of this county to the time of their execution. (40)

The appointment of the surgeon was simply a regularisation of an existing arrangement (41).

The attitude of the Surrey bench to its prisoners seems to have been legalistic: the committal and releases of prisoners were scrupulously recorded in the order books. The procedure in cases of committals was closely adhered to: mittimuses were properly signed and irregularities righted as quickly as possible. The table of fees settled on the opening of the New Gaol was for the most part respected (42). But the bench would go no further and it is not surprising that Howard could report so unfavourably on the Surrey County Gaol at the end of the century (43).

(b) The houses of correction

The origins of the houses of correction are to be found in the Tudor Poor Law: at first experimented with by various city corporations, they became more widespread with the implementation of the 1609 act (44). It was intended that they should provide work for both those who could not and those who would not find any. From the beginning, though, they also provided for the punishment of idle persons,

either by whipping, dietary restrictions or other punishments (such as the assignment to treadmills). Emphasis on that use of the houses of correction led to a gradual alteration of their purpose, so much so that according to the Webbs by the eighteenth century the house of correction was practically indistinguishable from the county gaol (45). In his assessment of the change of purpose of the house of correction Sean McConville suggests that this was a logical consequence of the relinquishing, by local authorities, of their duty to provide work for the poor. A statute of 1720 reinforced the similarity between the two types of institutions by authorising Justices to commit vagrants and minor offenders to either place (46). While this shift also occurs in the Surrey houses of correction, it is important to point out that the court chose not to confuse completely the original purpose of each institution. Evidence for this decision comes first with their determination to keep both a house of correction and the county gaol in Southwark on virtually the same site, and, more importantly, in the continued provision of work for the inmates of the houses of correction. In 1728, and again in 1752, the house of correction at Guildford purchased some tools and materials to set the inmates to work (47). In 1772, the house at Southwark was still providing for the beating of hemp and in 1804, Manning and Bray in their history of the county reprinted a list of the rates of pay of the inmates at Southwark (48). While none of this proves that much work was

actually carried out in the houses of correction, it nevertheless suggests a certain will on the part of the Surrey bench to keep the house of correction alive as an institution for the punishment of the idle. The calendars of prisoners submitted by the keepers of both the county gaol and the houses of correction of the county show that in the vast majority of committals 'loose and disorderly' persons were usually confined to the houses of correction and suspected felons to the county gaol. When an error occurred and a person from either category was assigned to the wrong institution it was common for a transfer to take place, a proper mittimus having been reissued (49).

Throughout our period the court was responsible for two houses of correction, one at Southwark and one at Guildford. Although the need for a third one was often recorded in the sessions order books (50), it was only in 1760 that the Kingston-upon-Thames site was purchased. The history of the house of correction at Southwark follows closely that of the county gaol and it was put into use at the same time. It was extended in 1731, possibly as an alternative to building a third house of correction (51). Conditions there were similar to that of the gaol, although, as we have seen, provision was made for the inmates to work. Perhaps unusually, male and female inmates were segregated in both the Southwark institutions (52). When the new house of correction at Southwark was built in 1772, this arrangement

was retained (53).

Less is known of the house of correction at Guildford. Its site on the High Street was purchased at some time in the first half of the seventeenth century. As with the house of correction at Southwark, the order books record a long history of poor maintenance. In 1750, for instance, a committee of justices listed a number of necessary repairs, which included mending all ceiling and floors, a large area of roof and two chimneys (54).

(c) The prison staff

The court was responsible for the main staff appointments to the county prisons. The office of keeper seems to have been eagerly sought after: on the death of the incumbent, petitions were received from persons who wished to be considered for the position. In most cases, the appointment went to a local man, often a craftsman, perhaps in the hope that he would be well equipped to assess the need for repairs to the buildings in his charge. The conditions of service were not entered in the order books. At the beginning of our period, in addition to the lodgings and various fees established by custom and law, the keeper at the county gaol received ten pounds per annum out of which he had to pay for his own staff of turnkeys (who in turn were entitled to other fees) (55). A petition for an

increase in salary by the keeper of the county gaol was turned down by the court in 1728 but it was prepared to consider the reimbursement of unusual expenses, such as the burial of a large number of inmates in times of epidemics (56). The keepers of the houses of correction were treated similarly.

The position of the county baker was also a popular one because the contract for the supply of bread to the prisoners, which was underwritten by the county, was a valuable one. Even more than with the keepers, there was a tendency for the court to keep the job in one family. John Collingwood, county baker at the beginning of the reign, was re-appointed in 1736 after being dismissed for fraud and was succeeded by his widow Deborah on his death in 1737. She was in turn succeeded in 1740 by Thurlow Trent who may have been her son-in-law.

Work on the fabric of the buildings provided local carpenters and masons with irregular but large jobs. In addition to more regular contracts for emptying the vaults of the prisons, small repairs were also necessary. With these, there was less of a tendency for the county to rely on the same people as there was for major repairs, and the trend was for the contract to be granted to the lowest tender.

(d) The debtors

The fate of the debtor, especially the small tradesman, was perhaps more discussed amongst contemporaries than that of other prisoners: from the Leveller tracts of the seventeenth century to nineteenth century novels, the greed of the keepers, the unwholesome conditions of the prisons, the unfairness of a system which allowed the well-to-do debtor to live in comfort while the poor one starved, were frequently condemned (57). The Surrey bench was perhaps more aware of these difficulties than most county Quarter Sessions, simply because the county included so many debtors' prisons within its territory. While it was not responsible for the running of the Marshalsea or the Fleet, Surrey bench was the authority to which all debtors in prison in the county had to apply to obtain their release under the general acts which were periodically passed for this purpose. At irregular intervals therefore, when an act of parliament allowed it, the court could assign the goods of a debtor to his or her various creditors and order the release. This led to periods of intense activity for the court, as in 1728-9, 1737-8, 1748-9 or 1757-8 (58). It was common for many fugitives to return from havens abroad to apply for a discharge under these acts. Lists of the places from which they returned may surprise by their diversity (59). The Surrey Quarter Sessions records are very informative on the cases of certain debtors: they can

include newspaper notices to creditors, lists of goods still in the possession of the debtor, orders for the appearance of the creditors or for the release of the debtor - but they also give a detailed insight into the management of the debtors' side of the county gaol, for which the court was directly responsible. The debtors were clearly a better organised, more forceful, more vocal group of prisoners than the suspected felons. The complaint printed in the Daily Gazetteer was only one such petition with which the Surrey debtors were associated. In addition to joining other county gaol prisoners in their complaints about bread rations (60), the debtors asked for an investigation into the allocation of the legacies to which they were entitled (61). The debtors at the Surrey county gaol had separate accommodation and a separate tap-room which they felt should not be used by prisoners on the felons' side. Whether this fastidiousness was dictated by a wish to keep away socially undesirable prisoners or by an attempt at controlling the spread of disease is not altogether clear. Be that as it may, the debtors' side was not immune from the outbreaks of fever which periodically occurred in the gaol (62).

(e) The convicted prisoners: administering the punishment

The court was responsible for administering the punishment which it had meted out. As we have seen,

punishment ranged from fines to whipping, imprisonment and transportation. The death penalty was not invoked. At the beginning of our period, fines usually imposed for misdemeanours, were graded as follows to reflect the seriousness of the crime in the Justices´ estimation:

	12	d:	minor nuisances; dirt in the highway; not paying rates
2	s	:	highways not repaired
2	s 6	d:	assault
3	s 4	d:	ill-governed tipling houses
5	s	:	assault on a constable; working on a Sunday
10	s	:	accepting under-tenants

A similar scale was operated at the end of our period, although fines tended to be higher and less frequently imposed. Fines could be paid either to the Sheriff or in the case of certain offences to the poor.

Whipping which could be administered either in public or in private was usually reserved for petty larceny or particularly serious misdemeanours. Public whippings were usually carried out in the locality in which the persons lived (64). The authorities would then have to arrange for the convict to be taken back to their parish, order the constable there to administer the flogging ´till the body be bloody´ and return them to the county gaol from which they could only be released after paying the fines due to the keeper. The distinction between the public and the private whipping which was administered in the prison, had some significance in the minds of contemporaries. Thus in 1732/3 Francis Walton alias Dubb, who had been convicted of

stealing a sack of coals out of a lighter, petitioned the court that his punishment be inflicted in private, as his business might suffer from a public flogging; and in 1747, a similar petition was addressed to the court by William Fincham who feared he might lose his work (65).

Custodial sentences, though rare especially at the beginning of our period, were occasionally resorted to. Some of these were imposed by statute, as in the case of the punishment of mothers of illegitimate children, but the bulk of them were imposed by the bench in response to what was considered to have been particularly reprehensible crimes. A Camberwell labourer found guilty of an assault with intent to commit sodomy was punished by the imposition of a prohibitive one hundred pounds' fine and twelve months imprisonment in 1759 (66). The fine alone would probably have constituted the equivalent of a life sentence since the prisoner could not be released until it was paid. More common was the three months' hard labour imposed on three Camberwell men for cutting down trees in Dulwich; they were, in addition, to be whipped once a month and to give securities for good behaviour for two years. Variants of the custodial sentence also existed: in 1758 two labourers convicted of grand larceny were to be entered in His Majesty's service on board two men-of-war going on a long voyage. It is significant that all these examples come from the later part of the period under review. The each case was

carefully assessed: whereas at the beginning of the reign of George II the court had a more general notion of the retribution owed to society, by the end of the reign the sentence was more of an individual punishment. This is borne out by the more detailed comparison of the verdicts reached by the Surrey bench at the beginning and at the end of the reign, examined in chapter three above. While at the beginning of our period the verdicts were calculated to have been fines in 95 per cent of cases and whippings four per cent, by the end of the reign of George II, the proportion had altered to 55 per cent for fines, 22 per cent for transportations and 16 per cent for whippings. and this in spite of the fact that fines and whippings were by far the cheaper method of dealing with offenders.

Transportation, the last form of punishment common to Quarter Sessions cases, was reserved almost exclusively for grand larceny and violent assault where the victim was badly injured or died. It too was a sentence more typical of the end of our period and might be considered to be a commutation of the sentence of 'burning in the hand and whipping' (67). Administratively, transportation was more complicated to arrange for, as a contract had to be agreed with merchants who would undertake to carry the convicted persons to plantations in the colonies. This was dealt with by special committees of Justices initially, but, as the matter became more routine, it was delegated to the Clerk of

the Peace (68).

The county was responsible for paying the administrative costs which arose from the transportation of people convicted at the Surrey Assizes. This meant that the county had to reimburse the Clerk of Assizes for his expenses, which would be quite considerable since the certificate of conviction signed by the Assize Judges had to be passed on to the Secretary of State to receive formal royal assent for the commutation of the sentence into a transportation order. It was in turn delivered to the Clerk of Assizes by the Secretary of State's office on the payment of two pounds two shillings and sixpence (in addition to all the attendant fees which such a procedure implied). Up to 1724 the county paid a guinea per transportee; then the rate was reduced to ten shillings a head because of the large numbers involved. In 1748 as the number of transportations from the Assizes diminished, the Clerk of Assizes petitioned for an increase in his allowance on the grounds that 'of late so very few have been transported that they scarce exceed a third part of what were formerly'. On enquiry, the court found that this was indeed the case:

1719	:	39	1742	:	16
1720	:	26	1743	:	18
1721	:	26	1744	:	12
1722	:	25	1745	:	7
1723	:	37	1746	:	13
1724	:	20	1747	:	9 (69)

From that date the Clerk of Assizes received twenty shillings per convict up to ten and ten shillings for any

above that number. Thus the number of transportations confirms the trend of declining indictments noted in Chapter three. The increasing use of transportation by Quarter Sessions did not make up for the decline in transportation from the Assizes.

Although Quarter Sessions did not sentence anyone to death in the period under review, they were responsible for maintaining the gallows for such occasions. In 1748, for instance, a report on the state of the gallows at Croydon was ordered by the court (70). From 1735, although executions still took place at Kingston upon Thames and Guildford, the main site was at Kennington Common:

> Yesterday William Priestly and Matthew Sellers ... were executed on Kennington Common; for which purpose a new triangular gallows 18 foot square was errected within a few yards of the gibbet where two of the men were hang'd in chains for shooting one Mr Back in the Mint, which is to be henceforward the common place of execution for Surry. (71)

The full horror of this first execution on the new gallows at Kennington is reported in the London Evening Post. Not only were the gallows not finished in time, but 'the beams of the gallows were so high that the poor fellows were forced to stand upon the copse of the cart, before it drew away, for want of a sufficient length of rope' (72).

III The highways

As we have seen highway maintenance was primarily a parish responsibility which was implemented by the use of statute labour. The supervision of this work was initially carried out by Highway and Petty Sessions which were involved in the auditing of accounts and the appointment of surveyors of the highway. The court of Quarter Sessions represented a court of appeal for many decisions taken locally and its work was essential in promoting highway maintenance.

(a) Highway rates and appeals

Even if it had been possible to get parishioners out six days a year to work on the highways, it became increasingly clear that statute labour was not always sufficient to ensure reasonably passable roads in each parish, particularly in those parishes which had to cater for a heavy and growing volume of traffic in the proximity of London. Parishes became increasingly inclined to employ labour on their roads, paying their workers firstly out of commutation money (that is, out of the money which parishioners were prepared to pay in lieu of statute labour) and, once this had been spent, out of a special rate which and to be sanctioned by a Quarter Sessions order. In the first ten years of our period, eight parishes per year

applied for permission to levy a rate between 4 and 6 pence, the maximum authorised by the statute of 3 Will & Mary c.12. In many cases, lip-service was still paid to the notion that statute labour should be employed: when the officers of the Clink Liberty asked for their rate in 1728, they specified that it would only be levied if such a thing became necessary after statute labour had been called upon (73). Nevertheless, the idea that people should be employed to repair the roads was already clearly established. The Gentleman's Magazine reports a suggestion that convict labour should be employed on the roads. There was an increasingly strong feeling that it was unfair to expect the parish to be responsible for the damage often done by traffic foreign to it. In addition to allowing the rates, Quarter Sessions was also the authority to which ratepayers could appeal over highways issues. Appeals against the appointment of surveyors were heard by the court, for instance, although such appeals were rare and quite often entered by the surveyors themselves (74).

(b) Neglect of the highways

In cases where there was a failure to maintain the highways in a passable state, Quarter Sessions was the body which could punish the authority responsible for the neglect - or 'public nuisance' in the terminology of the court.

The presentment of a road in disrepair could be brought to court by the juries, the high constables or any of the justices. When the presentment was entered an indictment against the inhabitants of the parish responsible for its maintenance, represented by their surveyors, or against the individual responsible, could be made out and, in theory at least, could be proceeded on in the same way as for indictments for criminal offences. In practice, however, under the act of 5 Eliz. c.13, a formal bill of indictment was not necessary when the presentment was brought forward by a Justice, and, in any case, there was a tendency to use the indictment as a formal warning to the parish concerned. Proceedings would usually cease as soon as a certificate of repair reached the Clerk of the Peace. There are, however, several instances of highway cases conducted to the end in the Surrey records for our period and, it may be noted that unlike certain other counties, the fines recorded in cases where the parish was found responsible were relatively small (75). The same procedure held in cases where individuals were responsible for the maintenance of the roads.

Some of the contested cases offer examples of disputed responsibility. In 1731, for instance, Lambeth and Camberwell each refused to repair a road which ran between the two parishes, on the grounds that it belonged to the other parish (76). Parishes also refused to repair highways which they claimed were the responsibility of private

individuals, and vice versa.

Initiating even relatively minor improvements, such as the paving of Gravel Lane in Southwark, needed the impetus of a Quarter Sessions order, although it is not at all clear whether the parish needed the sanction of the court in this case (77).

The reign of George II saw the introduction of much general legislation, in addition to the numerous local acts in the field of highway maintenance and repair, and by the end of our period Richard Burn could complain about the complexity of the law in this area:

> There are five and thirty acts of parliament now in force for making good roads; for which attention to the ease and convenience of travelling and conveying of manufactures, a foreigner very probably would highly applaud us and conclude that we are the best regulated nation upon earth, and that all our roads in particular are like bowling greens. but how amazed, if he should travel into the country ... The roads, if passable, are worse clouted and patched than the acts themselves are. (78)

In practice this legislation did not create much additional work for the Surrey bench, which seems to have restricted its action to setting down carriers' rates occasionally (79) and passing orders allowing heavy loads pulled by six-horse teams up steep hills such as Shrubb's Hill and Virginia Water Hill, for instance (80). The local

acts, on the other hand, under which the turnpike road trusts were established, presented the Justices with more work and it is to these that we turn now.

(c) The turnpike roads

Between 1696/7 and 1758, thirteen turnpike road acts relating to Surrey were passed by parliament (81). This represented a commendable attempt at making trunk roads passable through the county: the main axis, Southwark to Haslemere and beyond, was built by 1750, for instance (82). The point about turnpike roads is that they shifted the burden of maintenance away from the people through whose locality the road passed onto the road user, who had to pay for the use of the road (83). This became so widespread that lists of tolls payable through various counties were published in the press (84).

While the early turnpikes were under the direct control of the Quarter Sessions, it became usual from 1714 to set up completely separate trusts to administer the turnpikes. These, however, were not as independent as their constitutions might initially suggest, firstly because many of the trustees, who included many prominent landowners, were also Justices of the Peace (85), and secondly because any infringement of the law in connexion with turnpikes or damage to them was of course punishable at Quarter Sessions.

Perhaps surprisingly only a few cases of wilful damage were punished by the Surrey bench under the successive acts passed by parliament, although offences might have been prosecuted as riots and would not show up.

The weakness of the system is illustrated by an incident which occurred at Kingston-upon-Thames where illegal tolls were being levied. At the Easter Sessions of 1729, Nicholas Harding Junior and Edward Whitaker, both Justices living in and near Kingston, were appointed surveyors of the highways, under the terms of the act of 4 Geo I for amending roads from the City of London to East Grinstead (86), to investigate the problem. Even the additional weight that their recommendations carried did not help the court, as, in spite of repeated orders enjoining the Sheriff to remove the toll gates, they remained in place while the issue was removed to the King's Bench.

(d) Highway diversions

Highway diversions, which were to become very numerous in the nineteenth century (87), first appear in the records of the court towards the end of our period. Their interest lies in the fact that the procedure involved in order to obtain an order for a diversion was quite sophisticated. Briefly, they might be considered to be an integral part of

the process of inclosure, certainly in the cases which the court had to deal with in the course of the eighteenth century.

A person's request for a licence to divert the highway was submitted to the scrutiny of a committee of enquiry composed of jurors who resided in the area in which the diversion was proposed. The jurors would then return their verdict (always favourable in the five cases which occurred between 1747 and 1760 in Surrey) and the right to divert, if it was granted, was then recorded in the court Order Books. In addition to recording the findings of the jury, Quarter Sessions could also act as a court of appeal in cases where the findings of the jury were questioned by the local inhabitants. Its decision was then final. The difficulty, from the appellants' point of view, was that the jury was composed of wealthy landowners, who were themselves quite likely to apply for a similar licence. Witness, for instance, the appeal, in Easter 1747, against the licence granted to the Earl of Lincoln to divert a coachway which ran through Oatlands Park from the Walton Park Gate to the Weybridge Park Gate. The appellants were Lady Shannon, William Booker, William Welland, John Hitches, Robert Evret, all inhabitants of Walton and Lord and Lady Middlesex. Of the sixteen jurors, one was the Sheriff (on the committee of jurors ex officio) and eleven were active Justices of the Peace. The appeal was dismissed by a jury of eight Justices,

two of whom had been jurors on the original inquest (89). Perhaps not surprisingly, none of the other five cases of diversion was taken to appeal.

IV The County Bridges

(a) The building of new bridges

Much interest was taken in the building of new bridges. Descriptions appeared regularly in the Gentleman's Magazine, for instance. For Surrey alone, the new bridges at Walton, Westminster, Hampton Court, Guildford and Fulham featured in it (90) and five pamphlets were written on Westminster Bridge (91). As with the highways, the problem of funding public bridges loomed large and different methods were experimented with in our period. The first step, however, was to obtain an act of parliament to condone the scheme, since Magna Carta clearly stated (in the words of Richard Burn) that 'none can be compelled to make new bridges, where never any were before, but by act of parliament' (92). Both Hampton Court and Walton bridges were financed by private individuals, landowners in the area where the bridges were built and active Surrey Justices. Samuel Dicker, whose capital outlay on the bridge at Walton was reported to have been ten thousand pounds, and James Clarke, whose family had owned the manor of Molesey Matham since the seventeenth century, both obtained rights to the tolls of each bridge by

act of parliament (93). Another small bridge was built in Stoke Dabernon in the 1750's by Sir Francis Vincent, also a local landowner and active Surrey Justice (94).

The financing of the very large bridges across the Thames was beyond the means of individuals. Different methods were resorted to: the first lottery, which was to have funded the building of Westminster Bridge, proved to be a failure and a further act of parliament, which improved the terms of the lottery, became necessary (95). For the building of Blackfriars bridge, a loan of one hundred and forty four thousand pounds was raised in a few weeks in 1759, a clear indication of the good credit which the City had amongst the merchant community (96). As with turnpikes, responsibility for these bridges was vested in groups of trustees which included a large number of local landowners and justices (97). Once again, although Quarter Sessions was not directly involved with the building of these bridges, Justices were, in a private capacity (98).

(b) The maintenance of bridges

As with the highways, responsibility for the maintenance of the local bridges should have been clearly determined and, during our period, many bridges were in fact repaired by parishes or individuals. Thus Carshalton Bridge was repaired by the parish, as were the bridges at

Mitcham (jointly by Mitcham and Morden), Risbridge (by Wornersh), while Guildford and Kingston bridges were repaired by the town corporations and Durnford and Eashing bridges were maintained by the Lords of the Manor. Responsibility could be shared by different authorities, as with Brockham bridge (2/3 by the county and 1/3 by the hamlet of Brockham in Betchworth) or in the case of Mayford bridge, which was partly repaired by the parish and partly by the main landowner in the locality. It has been suggested that the number of bridges maintained by the county authorities grew considerably in the eighteenth and nineteenth centuries, both because of the increased awareness of the need for bridges and because it was gradually recognised that counties could be forced into paying for their maintenance. Ted Ruddock's work on the funding of the bridge maintenance shows, however, that this development was very uneven and that while certain counties absorbed the growing cost of maintenance of an increasing number of bridges quite readily, others were more reluctant to do so:

> The Justices of the Peace throughout Britain were empowered by law to maintain and improve all bridges within their boundaries which were deemed to be of use to the public, that is, the population of the Kingdom as a whole; but their response to the law varied enormously from county to county. As late as 1826, the Justices of Middlesex recognised only four bridges within their borders as 'county bridges', while Devon had 247 County Bridges by 1809 and the West Riding of Yorkshire had 112 in 1702 and 120 by 1752. The North Riding had very few county bridges in 1700

but adopted or built 81 more before 1760. By 1806 it had 115. (99)

The number of county bridges maintained by Surrey did not grow anywhere near as quickly. In our period, the county was responsible for ten bridges: Blackwater (jointly with Berkshire and Hampshire, Surrey being responsible for the two middle arches), Bramley, Brockham. Burford, Chertsey (jointly with Middlesex), Millbridge in Frensham, Sommersell in Pepperharrow, Stonebridge, Unsted, Vauxhall (from 1757) and Woodbridge (from the middle of the century). Towards the end of the century, Surrey took on a number of other bridges: an act of 1782, for instance, transferred the maintenance of Leatherhead, Godalming and Cobham bridges to the county (100).

The procedure invoked for the repair of those bridges which the county did recognise as its own was straightforward (101). Before the passing of the 1739 act, notice of the bad state of repair of a bridge would be brought to the attention of the court by high constables, Justices or perhaps hundred juries. Committees of local justices would then be sent to inspect the bridge, then to ask for tenders from local workmen. Payment for the work would be made on completion, after the work had been inspected. The act of 1739 stipulated that bridges in disrepair should be presented by the Grand Jury and this procedure was adhered to in Surrey, although, increasingly,

maintenance contracts were agreed with workmen for the regular upkeep of the main bridges in the county. In 1733 the court agreed to a fifty year contract of the maintenance of Blackwater Bridge (102); a seven year contract for the repair of Chertsey bridge was signed in 1744 (103) and further contracts were arranged for Unstead, Stone and Wood Bridges in 1746 (104). In the same spirit it was agreed in 1734 that Justice Budgen should be empowered to order repair amounting to under five pounds on Mickleham Bridge on a regular basis (105). This avoided the potentially costly delays which the formal procedure could entail but its legitimacy might be questioned.

V Other economic functions of the court

Quarter Sessions were also responsible for a host of other functions, which, important though they might have been, seemed to take relatively little time to deal with: they might be duties which only occurred rarely, or alternatively, responsibilities which the court, for whatever reason, did not enforce properly. In either case, however, they deserve a brief description, as they help to indicate what else was expected of the court, even if it failed to act.

(a) Affidavits and external audits

Quarter Sessions, as a court of record, could be used by private individuals who wished for certain facts to be formally recorded. Thus in 1729 Daniel and James Le Blon, tapestry makers in Mortlake, entered two affidavits in court (106).

Similarly, in 1743, the court had to check the accounts of the trustees of a will which provided funds for the rebuilding of Christ Church and directed that the trustees could only be exonerated once their accounts had been officially audited by the court (107).

This type of work was very rare and, in a sense, it is odd that the court should not have been used more frequently for this type of purpose. In theory, it provided safer and more official protection than the commonly used parish chests, but its underuse is probably due to the inaccessibility of the court.

(b) Petitions for briefs

Although the mechanism for the insurance of goods against loss by fire or theft existed by the beginning of our period, few merchants and businessmen were insured (108). When stocks or premises were damaged or lost, the

victims of disasters applied for a licence - or strictly speaking, a brief - to beg throughout the kingdom to recoup their losses. Applications to the Chancellor had to be backed by a formal recommendation by the Quarter Sessions of the county in which the applicant lived or had sustained the losses, which explains the survival of petitions for briefs among the court records. In 1741, for instance, the court endorsed the case of James Kelsey, of Godalming, whose farm, stock and cattle had been destroyed by fire (109). And in 1750, 43 gardeners applied for relief after a hailstorm had damaged their 'bell glasses and lights' to the amount of four thousand two hundred and twenty eight pounds two shillings and two pence (110). One year later, another petition was entered in the court records in support of the repair of Effingham Church (111).

(c) Statutory appointments

In addition to the supervision of the appointment of parish officers which has already been mentioned, the court was empowered by acts of parliament to appoint various officers whose functions were concerned with the control of the price and quality of goods or workmanship. The oldest such office, that of surveyor of pewter, which dated from the reign of Henry VIII, was rarely appointed to, as the act had boroughs and cities in mind rather than the whole of a county (112). Licences for kidders and badgers were granted

fairly regularly by the court, especially at the beginning of our period, and in this case, the old Tudor principle for the regulation of middlemen was still respected (113). Among the more unusual of these offices is that of surveyor of bricks and tiles, first created by an act of the reign of George I, to 'prevent unlawful combinations among brickmakers or tilemakers within 15 miles of the city of London'. The original act provided for the appointment of searchers by the Company of Tilers and Bricklayers, but a later act transferred this duty to the Quarter Sessions in the area. In Surrey the appointments were infrequent and were only made on the petition of brickmakers who wanted to be considered for the position (114). (It may be noted that the act attempted to protect the top soil.) A more temporary position, and one which was remunerated by the court, was that of inspector of infected cattle. Ten short term acts were passed to allow for this appointment in the space of eleven years and this the court in Surrey took seriously. A number of inspectors were appointed by the bench and were finally discharged in 1753 (115).

The court also recorded the appointment of gamekeepers, a duty imposed on the court by legislation of the reign of Anne, 'for the better preservation of game'. A very large number of these apointments were recorded in Surrey (116).

(d) Fairs and places of public entertainment

Fairs and similar entertainments presented the authorities with two problems: firstly one of law and order and secondly one of health. While the latter reason was often given for the suppression of popular meetings, it is clear that the former was paramount in Justices' minds. Indeed, the issue was deemed to include a 'moral' dimension. It was not simply the case that large assemblies could threaten the peace: they contributed to the corruption of young and impressionable people (117). In the middle of the century, when the cattle fever presented a serious threat, Surrey fairs were suppressed in 1740, 1749 and 1753, but in 1755, Lambeth fair was forbidden on the grounds that it 'ruined' apprentices and presented a threat to law and order: noise went on till one in the morning and many 'players of interludes' were attracted to the site (118). The fact that Lambeth fair was not protected by the charter must have made it a relatively easy target for the court.

R.W, Malcolmson has noted, from the middle of the century, 'an increasing willingness among people of authority to intervene against the customary practices of popular recreation' (119). Further legislation was passed towards the end of the reign to strengthen the court's control over music and dancing places. Licences had to be applied for and renewed annually at Michaelmas (in Surrey on

the second day of sessions). From 1752, orders licensing the Spring Gardens at Vauxhall, a room for music and dancing at Richmond, the Assembly Room at Epsom, the Green Man at Dulwich and the Long Room at Epsom appear regularly in the order books for the Surrey Quarter Sessions (120). The court also agreed that year that a second application should not be considered if the first one failed. These fashionable places must have attracted an undesirable element and throughout our period the court exhorted the parishes to keep their ward duties especially in Richmond and Clapham which boasted a large number of rich parishioners (121).

(e) Wage regulation

Although Quarter Sessions became responsible for enforcing wage regulations as early as 1368, the most significant legislation, as far as the eighteenth century bench was concerned, was the famous Statute of Artificers of 1563 which empowered the court of Quarter Sessions to set down the rates of wages to be paid in the various trades, notably in agriculture. By the eighteenth century, although certain counties such as Gloucestershire, Kent and Herefordshire, conscientiously compiled new assessments regularly (122), others, such as Middlesex, routinely copied the same table from year to year (123). In Surrey no assessment is entered in the court order books for the period 1727 to 1760 and this silence requires an

explanation, as it seems strange that the Justices, who were employers themselves, should voluntarily relinquish a possibility of wage regulation.

Since the completeness of the record is not otherwise in doubt, explanations for such a lacuna must be sought in local practice. Belief in the necessity for low wages was still the widespread view (124), and it is unlikely that the Surrey Justices did not, on the whole, subscribe to it. It seems that the bench, though it may have thought that such regulation was desirable, found it impracticable (125). Evidence to support this view comes from the counties which did issue formal wage assessments: E. Waterman shows that, in those counties, work for the county itself was remunerated at rates higher than the legal maximum. Using data for Herefordshire, R.K. Kelsall takes the argument further, and shows that the assessments there did not take into account fluctuations in the price of essential commodities such as grain and suggests that the authorities there were far more concerned with 'the scarcity of labour aspect of wage regulation' than they were with the rates of pay. This puts the whole issue in a different perspective and some circumstantial evidence suggests that the same considerations applied in Surrey. There is no doubt that the proximity of London made assessments unrealistic (as indeed they were in Middlesex), but it is interesting to find among the Surrey indictments at the beginning of our period a

number of accusations for idleness (126) (which were dropped as soon as the accused found work). Later in the reign these accusations were brought before the Petty Sessions, so it seems that this interest on the part of Surrey Justices to force people to look for work was a sustained one. This interest in the control of the mobility of labour may also explain the concern shown by local authorities in the application of the settlement laws, which we shall be looking at in the following chapter.

Little can be gleaned in the court records about wages and conditions in general, except in the case of apprentices, who could have their indentures cancelled in cases of mistreatment by their masters. Only one instance of an appeal by an employer against a Justice's order for compensation for maltreatment of his apprentice is recorded in our period. The appeal, heard by the court in 1747, succeeded, that is to say, the employer was excused the payment (127). In general, however, the law which regulated the relationship between master and servant seems to have been invoked very infrequently. Even in cases where the legislation allowed for further control by the employers, the court seems to have been very reluctant to take action. But this does not mean that conflict did not exist: a detailed account of an organised march, preceded by a drummer, of the Farnham hop pickers who were complaining about the commutation of traditional gleaning rights,

survives in a series of depositions entered in the court bundles of 1736 (128). Nothing else is heard of the case, though: then, as now, court action was a last resort.

(f) Regulation of trading practice

In addition to the licensing of various types of traders the court could regulate trading practice by hearing cases of unfair or dishonest practice by shopkeepers and merchants. Cases of forestalling, engrossing, regrating, working or selling on the Sabbath, selling underweight goods, using faulty measures, following a trade to which one had not been apprenticed were brought forward during our period (129). These prosecutions were initiated privately, however, and it is perhaps an indication of the lack of commitment of the court to this type of control that when the county baker was found to supply underweight rations to the prisoners in the county gaol, he was dismissed and not prosecuted.

The court was also empowered to set the price of ale under a statute of 1266 and of bread under an act of 1709 (which replaced mediaeval legislation). In Surrey, no attempt at enforcing this legislation is to be found in the records of the court, although there is some circumstantial evidence to suggest that the London Assize was followed in

the neighbouring counties (130).

VI Conclusion: county administration and the mercantilist ethos

A number of trends which have already been mentioned in the previous chapter may be noticed. In the period under review, there is a marked move away from the theory that local government should be run by the local people, towards the introduction of paid officials and contractors. This is particularly important with road and bridge maintenance, although it is also evident in the contracting for the transportation of convicts. The provision of a good transportation network seems to have been one of the most consistent aims of the Justices, although quite often they were acting in a personal capacity in this respect. The court was at its weakest in the implementation of wage and trading regulation which, while often irksome to workers, nevertheless afforded them some protection. The gradual dismantling of the legislative protection inspired by Tudor paternalism (although one should not overestimate the success of this type of legislation even in the sixteenth century) and the creation of a communication network sufficiently developed to encourage increased trading, were thus (perhaps still tentatively) promoted by local authorities from early in the eighteenth century.

A number of explanations might be offered for this trend in Surrey. The most obvious one is geographical. Although the county was rural, it was close enough to London to assure producers of a large market for their goods. This was perceived long before our period and large scale schemes such as the Wey Navigation which eventually nearly ruined the Weston family linked the small inland market towns of West Surrey to a broader network. A second reason for the early development of communication routes was the tendency (leaving the urban part of the county aside) noted in the Preface, for small industrial hamlets to spring up in the countryside. While those rural industries were ideally placed for access to raw materials or sources of power, difficulties were encountered in getting goods to market and the establishing of a good network of roads was bound to become an object of concern to the industrialists. A third reason for the special attention which the Surrey authorities gave for to communications was the commercial interests of the magistrates such as the Onslows who were anxious to dispose of their surplus produce.

This is not to suggest that in our period the county was blessed with an extensive network of roads and canals. There are many letters of complaint about the impassability of roads in the Quarter Sessions archives. Indeed, lack of decent mending materials (small flinty gravel was used) has been suggested as one reason for the poor condition of

Surrey roads in 1813 (131). Equally, one may note the magistrates' actions in improving the network of roads throughout the period. Evidence of the Justices' interest in highway maintenance appears in Assize Grand Jury presentments (132). Similarly, the very large size of the House of Commons Committee on the petition for an additional road to Godalming in 1757, is further proof of local magistrates' sustained interest in the matter (133). Their efforts were not wholly unavailing. In the 1720's merchants were known to commute daily from Epsom to London during the Season (134) and, by the end of the century, it was possible to get to London from Egham and return the same day (135).

CHAPTER FIVE: The administration of Poor Relief

The degrading urban poverty of the Southwark area boarded the dulling misery of the rural parishes of eighteenth century Surrey. Although one should not exaggerate the size of the urban agglomeration or overestimate the isolation of the rural parishes, many of which were connected to the capital by main thoroughfares, the contrast between the two ways of life was sufficiently accentuated to make generalisations about the state of the poor difficult (1). Traditional textbooks on the eighteenth century emphasize the favourable climatic conditions (and the consequent abundance of staple crops during our period). It has been estimated that between 1715 and 1765, widespread famine occurred in 1727, 1728, 1740 and 1756-7, years of crop failure (2), and, though the winter of 1740 was very harsh (3), it is also accepted that the first half of the century was relatively mild (4). The 'agricultural depression' of 1730-1750 is also isolated as a factor which facilitated the life of poor labourers as the decrease of corn process was greater than the decrease in wages (5). It remains true, however, that though the economic and meteorological conditions of the period under review were relatively favourable, poverty, experienced as it was by the greater part of the population, was a cause of concern for many philanthropists, legislators and journalists of the day. Pamphlets on the subjects appeared in the seventeenth

century, but the growth of the daily and weekly press in the eighteenth century undoubtedly contributed to reinforcing the urgency of the problem in the public conscience. Thus the readers of the London Evening Post were told of the following case in December 1743:

> On Sunday morning last a poor woman died in the street near Billingsgate; it seems that she had lain there two hours before she dy'd was senseless and stupify'd, during which time she was dragg'd by an inhuman person along the street for some yards, and by that means her legs and feet were bruised by the pebbles in a miserable manner, but what is more extraordinary, we are well assurd the unhappy creature dy'd in the very parish to which she belonged. (6)

Similarly, Fog's Weekly Journal reported in October 1737:

> Last Sunday a woman was found dead, lying behind the rubbish of some repairs in Faulcon-Court, Southwark. It is said that she complain'd of sickness, and desir'd relief of the parish officers on Saturday, but for want thereof perish'd; tho' we hope none but Christians are made parish officers, and all Christians have Humanity. (7)

It is easy to find other examples of this type of tragedy: these were clearly not isolated incidents. That they were reported in the press and that parish authorities should have been criticised so, nevertheless represents a heightening of public awareness. While one should not divorce eighteenth-century readers from their daily

experience (there is no doubt that they did not need to read about poverty when they witnessed it daily) newspaper reports perhaps made the issue more difficult to forget.

There was nothing new about the problem. From before the dissolution of the monasteries, several generations of legislators and administrators had tried to grapple with it (8).

I The bequest of the sixteenth and seventeenth centuries

Traditionally, any discussion of the system of poor relief begins with a description of the 1601 Poor Law, although it is a codification of nearly a century of legislation and does not represent a new way of looking at poor relief (9). It is not even a first attempt at summarising Tudor solutions to the problem of poverty, as that was done in 1598 (10), but it is difficult to divest the 1601 Act of the symbolic value it has acquired in the course of discussions of the principles which characterised the formulation of poor relief legislation up to the nineteenth century.

Six chronological stages can be distinguished in the evolution of the 1598/1601 code.

1. In 1531, Parliament for the first time made the

important distinction between indigents and vagabonds (11). Before that date, acts of parliament related mostly to the control of vagrancy. The sick and the invalids were at last recognised as a separate group, worthy of public attention and help. This distinction was to evolve slowly and a second category of people was eventually covered by public assistance, those willing but unable to find work. From the beginning of the seventeenth century, these three groups of people, the sick, the honest unemployed and the idle vagrant turn up with predictable regularity in the books and pamphlets on poor relief. The sick and the vagrant were easy to deal with as far as legislative provision was concerned: each community had to relieve the former and punish the latter according to acts of varying ferocity. The problem of the unemployed, once it had been admitted that such a problem existed, proved more difficult to cope with (12).

2. The second stage of the elaboration of basic principles for poor relief by the Tudors came in 1536, when the parish was designated as the main administrative unit for purposes of relief (13). From this date each parish became responsible for the poor born within its boundaries. The setting down of criteria for the exclusion and inclusion of possible recipients of relief is often taken as a decisive step in the creation of an efficient system of relief.

3. In 1552 legislation enabled the collection of alms for the poor (14). (Up to then begging had been the only form of support allowed by law and even then was restricted to poor parishioners who wore badges attesting to their condition.)

4. In 1563, legislation enforced the compulsory collection of alms in churches (15). Rebellious parishioners were to appear before their bishop. At that date the relief of the poor still retained its ecclesiastical context. The principles of compulsory alms was badly accepted. In York, for instance, there appears, on the list of parishioners who refused to pay, the names of two out of the twelve aldermen of the city (16). In 1598 alms were at last replaced by rates.

5. The creation in 1576 of workhouses where the unemployed were to seek work and training was the penultimate stage in the formulation of the Tudor Poor Law. (17)

6. These ideas were incorporated into the 1601 Act. After that date the legislative evolution continued but concerned the execution of these principles rather than their redefinition although two late seventeenth-century enactments modified this system quite considerably. Tudor legislation did not cover the case of the poor who did not

belong to a particular parish: the law was based on the general expectation that people would live in the parish of their father. Legislation of 1662 reiterated many of the provisions of earlier enactments. Section 1 of the act specifically stated that poor people should be prevented from moving from parish to parish and exhausting flourishing commons (18). Exemption was to be made for harvest workers. The act also recognized that the London area was burdened with a particularly large problem and empowered the authorities in Westminster, Middlesex and Surrey (within the mortality bills) to build workhouses. Incorrigible rogues and vagabonds could be transported to any of the English Plantations. The definition of settlement, however, remained unaltered.

In 1691, in an attempt to clarify the situation, Parliament redefined the criteria of 'settlement' and from that date 'settlement by residence was replaced with settlement by birth' (19). A new right of settlement was established automatically when a person either (a) contributed to the rates or (b) acted as a parish official or (c) completed his or her apprenticeship or (d) completed a period of work for a year or longer in a new parish. From then on people could therefore gain several settlements in the course of their lives, but only the most recent one counted. It is easy to imagine both the difficulties which such regulations created for the poor and the administrative

excesses which were thus sanctioned. a strict interpretation of the law encouraged the sacking of labourers and servants after eleven months or even 364 days' work. The statute of 1697 softened some of the consequences of the act of 1691 (20) and enabled parishes to deliver certificates of settlement to parishioners who wished to move to find work elsewhere but not lose the settlement they had already established.

It may be concluded that the seventeenth century contribution to the poor law had in many ways exacerbated the problem. The law at the beginning of the eighteenth century was sometimes unclear and often contradictory. One cannot base an analysis of the Poor Law solely on a study of the legislation: it is essential, as D. Marshall noted, to look at its implementation in the local communities (21) and this is what we shall seek to do here.

II Poor relief and eighteenth-century public opinion

Judging from the number of works published on the subject in the eighteenth century, few issues, if one excludes the Gin Act and the "War" (that is, the intermittent sequence of wars) aroused as much interest amongst the reading public as poor relief. The debate was developed in plays, fiction, parliamentary reports, newspapers and pamphlets. Contributions to the debate varied

in seriousness and practicability: one might mention for instance the suggestion printed in the Gentleman's Magazine of May 1757 that all that needed to be done was to feed the poor on rice and treacle (22). Of greater interest, however, are the treatises written by MPs and philanthropists of the period: their suggestions provide us with a considered critique of the workings of the system in their day (23). Their complaints can be summarised under five main headings.

A first, nearly universal, criticism relates to the size of the unit of administration. Most writers estimate that parishes did not possess the resources necessary to relieve their poor. Some writers, Thomas Alcock and Samuel Cooper for instance, suggest the Hundred as an alternative; others, such as the Earl of Hillsborough and Henry Fielding, preferred the county; finally, various writers, including Richard Lloyd, recommended letting the local Justices of the Peace divide the county as they thought best. In practice, the incorporation of poor law units which did take place by act of parliament in our period usually brought together multiples of hundreds (24).

A second, fairly general, suggestion (and this illustrates well the trend towards Foucault's Grand Renfermement) (25) is that relief should be administered in a more controlled and centralised fashion and that its recipients should be institutionalised. Typical of this

trend is Henry Fielding's plan for relief institutions, each of which provided a hospital, a workhouse and a house of correction, built around three courtyards. Similar projects were put forward by William Hay (1735), Thomas Alcock (1752), the Earl of Hillsborough (1752), Sir Richard Lloyd (1735) and Samuel Cooper (1763). Fielding also recommended the segregation of men and women and, in common with many other writers, insisted for the necessity for strict routine, punctuated with prayers and scripture lessons for the inmates of such establishments. It is significant that Fielding's project should have been entitled 'A proposal for making an effectual provision for the poor, for amending their morals, and for rendering them useful members of the society' - a fairly standard denunciation of the immorality of the poor. (That the same writer could also write up the other point of view, as he does in Tom Jones in which one of his characters exclaims 'You won't suspect a man of being a thief only because he is poor' (26) perhaps suggests that the rhetoric of role-play can hypnotise even sensitive and humorous minds.)

While it is impossible to deny the growing institutionalisation of public relief in England in the eighteenth century, it is important to point out that there also existed quite an influential counter current among some thinkers. Richard Burn's plan for poor relief, for instance, criticises large institutions such as the French general

hospitals (27), which he thought too large and shakily financed and recommended instead the building of individual family houses in the locality to which the poor belonged. He gave two reasons for his stand: firstly that the large initial capital expenditure required for the building of a central institution could represent a financial risk when there was no evidence that such a system worked anyway and, secondly, that it was essential, as far as he was concerned, that poor families should be protected as the separation of couples would lead to a catastrophic depopulation of the country. The polarity of the recommendations of Burn on the one hand and Fielding on the other can be explained, in part at least, by the diversity of their practical experience. Although they both were Justices of the Peace at the same time, Fielding acted in Middlesex, a populated and 'difficult' county, while Burn operated in the calm of Westmorland. Without exaggerating the symbolism of this polarity, it might be suggested that the roots of the Grand Renfermement lie in the urbanisation and industrialisation of societies at the time, a point nicely made by Michael Ignatieff in a slightly different context:

> What matters, is not a rationalizing or calculative attitude towards the use of labour power, but whether a specific mode of production can provide useful tasks for the insane, and whether the able-bodied can combine work with the custody and care of the deranged. This could suggest that the undoubted decline of domestic production in the outwork industries, the artisanal sector and the cottage economy of the common land labourer during the Industrial

> Revolution may have decreased the ability of able-bodied members of poor families to combine productive activity with supervision of their aged and insane dependents. It is the separation of work and home in the course of industrialization which leads to a re-drawing of the boundaries of familial obligation towards the dependent, and which leads the poor to be responsive to the asylum as a way of removing burdens felt for the first time to be intolerable. (28)

The third area of criticism by our writers on the poor law relates to the difficulties which arose in the enforcement of settlement rules. Not only were the rules complicated, but the underlying principles were felt by some to be unacceptable. Adam Smith's often noted comment that the poor law transformed the parish into a prison for the poor worker is only a reiteration of the assessments of earlier commentators. The lawyer Nelson wrote in 1729, for instance:

> We have laws now in force to confine men to certain places of habitation, which is a sort of imprisonment, not for a fault, but for a misfortune in being poor; and it hath been questioned by some whether such laws are fit to be introduced amongst us, especially when so little care is taken to employ our poor. (29)

Or again, consider this anonymous comment of 1759:

> Our laws for the relief of the poor, are in some respects perhaps improper; the restraining or confining them to the parish they belong to, tends to cramp industry, and often obliges the labourer to live upon parish allowances when he might otherwise provide for himself and family in a comfortable manner. Should his industry prompt him

> to try to get his bread in any other part of the Kingdom, he must be so far treated as a criminal as to be sent to the house of correction, and passed as great expence to the place he came from. (30)

In this context some controversy arises as to how frequently the settlement rules were invoked. Commentators at the end of the century, notably Eden and Howlett, asserted that the law did not fetter workers to one place. For them the growth of towns such as Sheffield, Birmingham or Manchester could not be explained without the de facto abrogation of the law. J.D. Chambers proposed the judicious (and likely) compromise that the law of settlement was implemented perhaps more strictly in overpopulated rural communities and not in the growing urban conglomerations (31). It remains that in the minds and experience of the writers whose work we are looking at here the law of settlement was often implemented and created serious problems and most of them suggest a fairly sizeable redefination of the concept. William Hay suggest that the unit of settlement should be the county, not the parish; an anonymous writer wrote in 1737 that the poor should not be sent back to their parishes before they solicited help; the Earl of Hillsborough recommended that poor relief should be administered in the parish where it was asked for; and Richard Burn advocated a return to pre-1691 terms of settlement.

The fourth area of dissension and criticism related to the financing of poor relief. Some commentators, notably Thomas Alcock, maintained that the poor rate should not be compulsory. This trend was to intensify towards the end of the century when it is often associated with the development of Friendly Societies and the idea of self-help for workers (32). Before 1760, however, it was rare for the compulsory levy for the poor to be questioned on principle (33).

Fifth and last complaint (and it may be more appropriately described as general outcry) concerned the distrust with which public opinion regarded the parish officers responsible for the administration of poor relief. Overseers and churchwardens were, in the eyes of many, dishonest and cruel. Witness this outburst by an anonymous writer in 1740:

> Another great grievance is the corruption of the Overseers of the Poor and the Churchwardens, in almost all the parishes, not only of this great city of London, but all over England. There is a great deal of money collected everywhere for the Poor; as I have been told, upwards of two hundred thousand pounds a year, which would maintain more than double the number of our real poor, if duly applied; but it is so unfaithfully distributed by the unmerciful overseers, that the real poor are starv'd, and the Overseers guzzle the Poor's money in taverns, and enrich themselves, which is a great hardship upon all house-keepers and yet the number of beggars at our doors is not lessen'd, ... (34)

This leitmotiv also found its way into the newspapers,

as we have seen, and indeed into acts of parliament. Nearly all the projects for the reform of the poor law advocate the introduction in each county of guardians of the poor, to supervise the activities of the Overseers and make policy decisions. These guardians were to be either JPs or the richer ratepayers of the locality. Characteristically, the ever-practical Richard Burn suggested instead the creation of a paid appointment in each hundred, to supervise the work of the Overseers.

Taken together these criticisms amount to a serious indictment of the working of the poor law in the eighteenth century. The House of Commons Journal attests to the genuine concern which the whole area of poor relief caused the members of parliament. Between 1727 and 1760 many bills were brought forward on the subject, but only minor modifications to the existing system managed to pass both Houses. It was difficult for MPs to find areas of agreement significant enough to introduce major change. Although the task of isolating the weaknesses of the system was an easy one, that of working out consistent answers proved too awkward. As J.S. Taylor noted in his article on the law of settlement, 'The law, as it obtained between 1691 and 1834, did not survive because it lacked critics but because it lacked alternatives' (35).

Let us turn to poor relief in Surrey.

III Poor parishioners in Surrey

The law left each parish to devise its own particular methods of relief: no statute either specified the form which any such assistance should take or laid down the criteria of poverty. Typically, the Workhouse Act of 1723 was an enabling act. Nevertheless, the accounts of Thomas Puplett (36), Overseer for Tadworth End in the parish of Banstead, provide a standard example of the items which parishes took upon themselves to provide for those parishioners whose claim they recognised:

'The account of Thomas Puplett overseer for Tadworth End for the year 1737 from the 2nd May last past to the 10th of April 1738. 49 weeks.

Pd Widd: Matthew 49 weeks at 2s p week	41.	18.	0
To Emma Black 49 weeks at 2s - -	41.	18.	0
To Widd; Bailey 12 weeks at 2s 6d	11.	10.	0
Pd nursing Elizabeth Wooder Child 14 weeks at 2s p week	11.	8.	0
To John Law constable his charges	11.	6.	6
To Henry Hatch High Constable	11.	11.	6
To Jeffrey Wooder nursing a bastard child	0 .	18.	0
To Wm Skeet constable Gaol Hospital mony	21.	5.	8
Pd a years rent for Widd Wakes due att Lady Day 1738	21.	0.	0
Given to Rich. Rivers in sickness at times	0 .	6.	0
To Wm Batchelor in sickness	0 .	4.	6
Pd a years rent for Daniel Symms due at Lady Day 1738	41.	0.	0
Pd for nursing a sick traveler	01.	7.	0
Pd a year & halfe rent for Emmanuell Blake due at Lady Day 1738	21.	17.	0
Pd for Rich. Rivers House to John Wooder	21.	12.	0
Pd Mr Walter for poor rate signing	0 .	2.	0
For a warrant drawing a list of freeholders & copyholders to serve on jury	0 .	5.	0
Pd for clothes for Elizabeth Wooder child of Muggered	11.	1.	0
Expences to apprehend Elizabeth Wooder	0 .	3.	0
Expences at makeing the two poor rates	0 .	15.	0

625 of bavins to the poor at 14s p 100	41.	7.	6
Pd for a coffin and shroud for John Stanford	0 .	19.	0
Pd for a load of straw to thatch Rivers house	11.	1.	0
Expences with a sick traveler at the Plough	0 .	5.	0
Given to the Widd. Richardson in sickness	0 .	2.	6
	40 .	3.	10
Recd by two books	53 .	17.	6

Parish help, therefore, ranged from short term supply of fuel and financial assistance in sickness to substantial rent allowances. It made utter poverty just about bearable. 'The Old Poor Law', in the words of M. Blaug,

> With its use of outdoor relief to assist the underpaid and to relieve the unemployed was, in essence, a device for dealing with the problem of surplus labor in the lagging rural sector of a rapidly expanding but still underdeveloped economy. (37)

And it was recognised as such. Thirty years before the introduction of the Speenhamland system of relief by Berkshire Justices, the parish of Godalming in Surrey was subsidising the earnings of its weavers (38). Outdoor relief, which formed the basis of parish relief, was anathema to the idea of 'renfermement' and the institutionalisation of relief was slow. Workhouses, which were commoner in urban parishes, were still rare enough in 1766 to be pointed out as special features in John Entick's Survey of London (39). Conditions of life within the institutions were probably less strictly regulated than they would become in their nineteenth century counterparts,

although strict regulation, as we have seen, was avowed aim (40). As late as 1775, anyway, an enterprising Wimbledon pauper could still defy such attempts at control, as the workhouse accounts show:

> ´20 November. To paid for wheeling home Baggot when drunk´ ... (41)

Workhouses outside the urban areas were rarities and more practical solutions were found to the problem of homelessness. Typical of this was the practice of petitioning Quarter Sessions for the permission to build houses on parish common or waste land to which the statutory 4 acres of land were not attached to house poor families. Such petitions were usually endorsed by the more substantial landowners of the parish who certified the honesty and general worthiness of the family on whose behalf the petition was being forwarded to the Bench. It is striking, however, that relatively few examples of this process can be found in the Surrey Quarter Sessions records (42) and it may be suggested that, since the records of the court are probably complete in this respect, such a step was a desperate last resort rather than an automatic solution (43).

In the case of the settled poor, Quarter Sessions could intervene in two other types of misfortune. Firstly, where the person seeking relief had better-off relatives and,

secondly, where families had been abandoned by a property-owning head. In the former case, the Elizabethan poor law insisted on maintenance payments by the relations who, according to the parish authorities, could afford it (44). Where the rich relative refused to support his kin the case could be taken to Quarter Sessions, who could make an order for the support of the poor person involved. The 1834 Poor Law report noted that this provision was no longer implemented, but it should be recorded that in Surrey at least, between 1727 and 1760, ten such cases were dealt with by the Bench (45). The most common relationship in these ten cases was that of grandparents refusing to maintain their grandchildren. In the second case, that of families abandoned by a landowning head, the Overseers would apply to Quarter Sessions to obtain the right to sell the property and reimburse the parish. Between 1727 and 1760, about half a dozen such cases are recorded in the Order Books (46). It is perhaps surprising that any should be recorded at all, since the expropriation of a family would exacerbate its plight and, in the long run, increase its dependence on parish funds.

It is customary to note the flexibility and general humaneness of parish relief to the settled poor in the pre-industrial period. This must be largely a later rationalisation: help, though it often was available, was not necessarily easy to obtain or sufficient. The testimony

of the poor goes mostly unrecorded, yet it remains true that the fear of the workhouse, of ending up 'on the parish' clearly antedates the introduction of the more efficient and more regulative system of relief of the nineteenth century (47).

IV Poor Children

In 1737, an estimate put at 90,000 the number of children in need of relief in the English parishes (48). It is, of course, impossible to verify this statement, but the figure nevertheless points to the alarm of certain contemporaries. Commentators were divided, as we have seen, as to the fate of families which fell on hard times. Some believed that the families should be separated to prevent a rapid increase of the number of the poor. Others, on the other hand, saw these children as the new generation of workers on whom the wealth of the country depended:

> As the number of inhabitants is the strength of a kingdom, and the wealth of it in proportion to the quantity of labour how much is it the interest of the state, to cherish the numerous offspring of the poor (who are the seeds of our wealth) and protect and relieve the distressed? (49)

More pragmatic reasons were given to justify the protection of poor and abandoned children; if they were not looked after they would almost certainly end up being thieves or beggars with all the disagreeable consequences this might

entail for property owners. The creation, in the latter part of the century, of a number of specific institutional charities proves the very realistic knowledge, by the charity founders and subscribers, of the fate reserved to poor children and adolescents. The Foundling Hospital is one such charity, but in a sense it was uncontroversial. Of greater interest, perhaps, is the charity noted by John Entick in his Survey:

> And on the South West, near the turnpike, is a modern charity called the Asylum, or house of refuge for orphans and other deserted girls of the poor, under 12 years of age, to preserve them from the miseries and dangers to which they would be exposed, and from the guilt of prostitution: proposed by Sir John Fielding, Knt., and supported by private contributions. (50)

More traditional and commoner were the charity schools which provided free education for some poor children. In the London part of the county a surprising number of these schools operated (51), but it must be emphasised that this was an urban solution to the problem, and a solution offered by private gesture rather than public principle. Rural parishes were not so well organised although the role of local officers is perhaps easier to trace. Wimbledon kept children in its workhouse from the time it had one, but this was unusual and relates to the second half of our period (52). In general, the parish was expected to relieve four types of cases: the orphan, the foundling, the bastard, and the child of very poor parents. In all cases, once the early

years had passed, the remedies were more or less the same: school, apprenticeship or service. Special provisions were made by law for the maintenance of illegitimate children. Although illegitimate children cannot have presented an enormous numerical problem (E.A. Wrigley suggests that fewer than 5 per cent of baptisms recorded in parish registers in the eighteenth century before 1760 were of illegitimate children), the issue displays a characteristic ambiguity in the response of the establishment and legislators more specifically, and this over quite a long period. An act of 1576 provided for the whipping of both parents and a later Stuart amendment empowered Justices to imprison the mother in the house of correction for a period ranging from six weeks to a year (53). This punishment clearly applied only to parents who sought parish relief: at a time when the illegitimate offspring of the rich were accepted without stigma, the authorities did not find it inconsistent to punish the 'immorality' of the poor (54). By the eighteenth century both the imprisonment and the whipping of the parents of illegitimate children were rare, and the order for the whipping of a mother, recorded in the 1746 Surrey Order Book, is striking by its singular exemplariness (55). It may be said that parishes were usually more concerned with finding a respondent to pay for the maintenance of the child than with apportioning blame. From the sixteenth century illegitimate children were to be maintained by the parish where they were born: this led to the notorious

harassing of pregnant women to ensure that the birth took place over the parish boundary, and related abuses including the blackmailing of parish overseers by pregnant women. Both types of cases occasionally ended up at Quarter Sessions as criminal offences, either as officers' neglect or fraud. In the course of the seventeenth and eighteenth centuries the law relating to the maintenance of illegitimate children was slightly altered. A revision of 1662 had little effect since it simply empowered overseers to seize the property of illegitimate infants to reimburse the parish, a circumstance which must have been rare (56). The law of 1733 had more effect: the parish was empowered to obtain indemnification from the father of the child. Paternity was sworn by the mother before the birth of the child, or, occasionally, extracted from the mother by the midwife (57). In the former, more usual, case the father entered into a recognisance to provide maintenance for the child. These recognisances ('B.C.s' in the Surrey registers) cannot have been regularly signed in every case, as the most that can be found in any session in Surrey is five. In theory, if the father could not find guarantors for his recognisance, he was to spend the period up to the birth of the child in prison. In practice few such cases have been found in Surrey at least. At the birth, Petty Sessions could issue an order settling the amount of the weekly maintenance payments. Some fathers preferred to arrange for the payment of lump sums, an offer which was accepted by some parishes. In any case it

seems that the matter was settled out of court. It has been suggested that the law of 1733, by tilting the balance in favour of the woman, led to many abuses and that mothers, often at the instigation of the parish officers, could either obtain marriage or maintenance for the child by threatening the putative fathers with the possibility of prison. Whether such abuses were widespread as is suggested by the 1834 Poor Law Report is open to question and a number of historians have pointed to the marked bias of the Commission in a number of respects (58). In the eighteenth century, as a general rule, putative fathers were advised not to contest the accusation, but to haggle with the overseers over the amount of the payments (59). There is no doubt that in Surrey practical experience proved the solidarity of this piece of advice: of the thirteen appeals from Petty Sessions registered in the Quarter Sessions registers for our period up to 1744, eleven were dismissed straight away, the twelfth was respited and the thirteenth case, which succeeded at first on a technicality, failed eventually (60). The social status of the putative fathers, which ranged from labourers to shopkeepers and included a gentleman, did not play in their favour. From 1746 the procedure for the registration of affiliation orders came within the purview of the court or Quarter Sessions and, by eliminating the Petty Sessions stage, effectively did away with the possibility of appeal. (Richard Burn complained about the vagueness of the law in his manual) (61). Between

1746 and 1760 only five affiliation orders were entered in the Surrey registers, which clearly indicates again that in the vast majority of cases private agreement between the parishes and the individual concerned must have been reached (62). It is rather in parish records that evidence for this type of case is to be sought. Witness this extract from the Wimbledon Vestry minutes:

> 17 Oct, 1756. If Jo. Sharpe bricklayer now in the house of correction in the Borough of Southwark for begetting on the body of Phillis Bowen a female bastard child agrees [he is to] enter into an agreement with this parish to work with Wi. Terry bricklayer for such wages as is customary in the parish and to leave in the hands of the said Wi. Terry for the use of the parish 5s p.w. for the charge and expenses the parish has been at all or shall be at in the maintenance of the said child for the term of 1 1/2 [years], and for the strengthening of the agreement he is to give bond for 20 pounds to be paid to the parish upon fulfilling the agreement. To Mr Chambers. The parish is desirous of sending Phillis Bowen to the house of correction and doth desire that you will be so good as to commit her. (63)

It is not surprising that it should often have been suggested that the cruelty of parish officers and the viciousness of local gossip drove mothers to infanticide, although the murder of children was hardly necessary when there existed in the institution of the parish nurse an effective and legal method of getting rid of unwanted children. The horrors uncovered by the 1716 parliamentary enquiry into the high number of deaths among infants in the care of parish nurses led to the recommendation that the

system of paying lump sums to nurses should be replaced by weekly payments to workhouse governors, in the hope that a shift of emphasis away from a system in which most profit could be got from the early death of the child to one where regular care would be most conducive to making money would lead to a better mortality ratio (64). It seems that Surrey lagged behind a number of other counties in its failure to introduce central institutions to look after abandoned or orphaned children (65); certainly it failed to provide for the regular inspection of parish nurses, a scheme which was introduced by a number of London parishes.

Those parish children who survived their infancy were then expected to acquire habits of cleanliness, deference and hard work as a useful preparation for a formal apprenticeship or a period in domestic service. In Wimbledon workhouse they were taught to read, although this was not always considered essential (66). The minimum age for apprentices was seven, but it was common to wait a few years more before arranging for a master to take them on (67).

Under the statute of 1601 apprenticeship for parish children differed in one important respect: it was much longer for a parish apprentice than for other children. The statute of 1601 provided for the compulsory billeting of parish apprentices on parishioners who could afford to keep

an apprentice. From 1691, when apprentices were enabled to gain a right of settlement in the parish where they had served the last forty days of their apprenticeship, overseers started seeking masters beyond the boundaries of their own parish and paying fees to those masters. A parliamentary enquiry of the early years of the reign of George III commented that parish authorities were not as a rule prepared to put up the amount of money necessary to guarantee a reasonably honest and skilful master (68). That the parents also harboured some doubts about the masters line up by the parishes is evident from the following minute of a Wimbledon Vestry meeting:

> 13 March 1747/8. Widows Stevens's, Lewer's, Greentree's, Beacham's and West's children to be allowed no pension until they come and lay before the vestry the reason why they refused to let their children go out apprentice when masters mistresses [were] ready got for them. (...) Lewer's girl Ann allowed 2 shifts, 2 aprons, 2 caps and a petticoat if she consent that her daughter be bound out apprentice for 1 year if she likes after a month's trial, but if she will not consent to be bound she is not to be allowed anything, and it shall be a standing order for all children that are burdensome to the parish. (69)

While the preliminary arrangements were made by the parents of the parish, the court was in theory expected to preside over any cancellation of contract. Yet between 1727 and 1760 only 55 cases, including non parish apprentices, are recorded for Surrey. Clearly it was unusual in Surrey for people to seek formal cancellation of the contract: it was simpler for the apprentices to run away or the master to

abandon his charge. The advantage of a formal recognition of the cancellation, in addition to possible financial compensation in some cases, was that the court could re-assign the apprentice and shorten the term of a subsequent indenture. It was also true that by passing through the courts the apprentice was also protecting his right of settlement. It is not surprising that, of the fifty five cases brought to the Surrey sessions, the vast majority should have been complaints by the apprentices against their masters. Most of them were not parish apprentices (who very often were not fully apprenticed to a trade but put out as servants on an annual basis) and most of them were male.

V Settlement and removal

As in other counties, the law of settlement, particularly its 1662 provisions, which enabled overseers to remove persons likely to become chargeable before they requested assistance from the parish, was not systematically applied in Surrey. Some parishes, however, and one may mention Mitcham in particular, did compile detailed records of the inhabitants of the parish, to establish their status and potential rights or otherwise (70). Examinations were even taken of people who had been born in Mitcham! This suggests considerable harassment in some parishes at least. The settlement examinations which survive in many parish deposits illustrate the complicated and relatively mobile

life history of many deponents. Apprenticeships often finished before their time; widows did not know where their husbands last had a settlement; and what of the children of a first marriage: were they to follow their mother to the settlement she gained on her second marriage or be sent back to their deceased father's parish?

Settlement examinations did not automatically lead to removal. In many cases the person or family removed had already fallen on hard times. The procedure was then for the parish officers to apply to two local justices to sign the order for their removal. Before signing the order the Justices were to examine the applicants as to their settlement rights and then to decide on the right destination of the order. Some doubt has been cast as to the effectiveness of the system. Justices may not have always been very careful about the ultimate destination of the person removed. While this was often the case, there is also evidence for careful attempts by the parish officers at avoiding the necessity for legal expenses or indeed for removal. Thus the Wimbledon Vestry ordered in February 1749/50:

> A letter to be sent to the officers of Monks Kirby, Warwickshire to inform them of the necessity of relief Eliz. Blake is in, she making complaint she is in want of subsistence. (71)

Receiving a poor person back into one's parish could

entail quite a large sum of money: apart from providing essentials for the person on his or her arrival in the parish, transport and other expenses incurred by the other parish had to be met. J.D. Chambers notes that, in Nottinghamshire, each parish was concerned on average with about two cases of settlement and removal per year (72). Although it is difficult to vouch for the comprehensiveness of the Surrey figures, a similar number seems to have occurred in Surrey. The average, of course, hides very wide variations, as out of the way parishes came across the problem rarely, while parishes on the main county thoroughfares developed sophisticated machineries to cope with it.

Where the case was contested by the receiving parish, it was taken to appeal in the county from which the person had been removed. These appeals, which, by the eighteenth century had become complicated affairs and made use of counsels and legal representation in court, could cost £40, or the equivalent of 1/16th of the annual poor rate of a large Surrey parish at the beginning of our period (73). Between 1727 and 1760 the Surrey Bench determined 519 such appeals, or twelve per annum, which is again roughly the same average as for Nottinghamshire. Although these appeals were not very numerous, they were time consuming and a number of historians have estimated that one half to three quarters of the sessions were spent determining them (74).

It is worth noting that appeals were often put off from one session to the next and that the Bench must have had to spend some time on the same case on different occasions. Henry Fielding certainly believed that the county benches did not always resist the pressure of determined Justices:

> ... an appeal is almost certain to be made if an Attorney lives in the neighbourhood and it is almost as sure to succeed if a Justice lives in the parish. (75)

Thus, if Fielding's theory was right, one would expect the Surrey bench to determine cases favourably to Surrey appelants in situations where only one of the parishes lay within the county boundaries. But close examination of the 519 cases investigated here shows only a very relative partiality on their part. Chamber's analysis for Nottinghamshire concurs with this finding (76).

APPEALS AGAINST REMOVAL ORDERS, 1727-1760

	UPHELD		DISMISSED		PARTIAL		TOTALS		
	Int	Ext	Int	Ext	Int	Ext	Int	Ext	Total
1727-30	22	11	10	12	0	1	32	24	56
1731-35	14	10	13	8	0	1	27	19	46
1736-40	23	31	17	27	0	0	40	58	98
1741-45	20	34	20	17	0	0	40	51	91
1746-50	26	22	10	21	5	0	41	43	84
1751-55	19	23	11	14	0	2	30	39	69
1756-60	17	32	17	9	0	0	34	41	75
TOTALS:	141	163	98	108	5	4	244	275	519

Key:
- int: cases where both parishes were situated within the county
- ext: cases where one of the parishes was situated outside the county
- partial: cases where only part of the appeal was upheld

In Surrey, as in Devon, Shropshire, Lincolnshire, Wiltshire and Westmorland, the typical removal case was that of a family with young children. Poor single people were more typical of urban parishes (77).

The case of the 'certificate man' must be alluded to, as the issuing of certificates to parishioners who lived beyond the boundaries of the parish is one of the best proofs that the system of settlement and removal worked and was invoked. Certainly certified men and their families often appear in Surrey settlement examinations. That settlement certificates were frequently used in the county is evident from the large numbers which survive in parish deposits. The following list was compiled from a selection of the more complete Surrey parish archives (78):

SETTLEMENT CERTIFICATES: SAMPLE OF SURREY PARISHES

PARISH	DATES	NUMBER
Abinger	1730-60	30
Alfold	1728-59	33
Betchworth	1731-59	50
Elstead	1734-59	12
Esher	1727-60	55
Ewhurst	1728-60	25
Godstone	1728-59	35
Woking	1728-59	38

The vast majority of these certificate applied to people who had moved within the county. Of the 278 cases examined above, only 72 came from beyond Surrey. Thus people who wished to live beyond their own parish boundaries were fully

aware of the procedure to be followed.

If the certificate man represents the machinery of settlement and removal at its most efficient, the vagabond tested it both in principle and in practice. Vagabonds, damned by generations of commentators and singled out by legislation for very harsh treatment, also came within the scope of the law of settlement. The Tudor provision for the whipping of vagabonds was retained by subsequent legislation, which also added imprisonment as a possible punishment for recidivists. Under the terms of the Act of 13 Anne c.26, any person arresting a vagabond was to be paid 2 shillings by the county. After the whipping the vagabonds should have been sent back to their parish, although many vagabonds probably did not have settlements: of those who had one, many did not wish to live there and left it again after removal. It is significant that, of the many legislative attempts at improving the poor law in the eighteenth century, only the policy relating to vagabonds was enacted. The act of 17 Geo II c.5 was part of a larger scheme (79), devised by William Hay, an M.P. who was also an active Sussex Justice. It was so severely emasculated in its passage through Parliament that Hay himself was relieved to see only the least controversial part of it become law. The treatment of vagabonds shows up more clearly, perhaps, the role of Justices, by opposition to parish officials, in he local implementation of legislation. There is no doubt that

parish officials and constables in particular preferred to 'move on' vagabonds beyond the parish boundaries and not worry unduly otherwise. There is much evidence in parish accounts that there was a strong tendency for officials to ward off potentially troublesome vagrants by paying them small sums to assist in sickness or in hunger. The whipping of vagabonds was often not implemented. Yet there are numerous attempts in Parliament and in the counties at making vagrancy not just a severely punishable offence but a severely punished one. Thus the Surrey Quarter Sessions Order Book recorded in 1748:

> Forasmuch as by the tenor of a late act of parliament made concerning Rogues and Vagabonds no such are to be passed to their settlement until after such whipping or imprisonment as by that act is directed, this court therefore to prevent any unnecessary and unwarranted charges and expenses doth order that no High Constable do pay any allowance to any petty constable for passing any rogue or vagabond until he shall certify that such rogue or vagabond hath been punished by whipping or imprisonment as the act directs. (80)

In 1759 the bench set up a committee to report on the whole issue of vagrancy. The final report of the committee is interesting as it provides a detailed criticism of the system as it worked in Surrey (81). The first finding related to the overall expense involved. In 1757, £502 15s 9d was paid for passing vagrants, and £12 for apprehending them. The first part of the report was devoted to explaining why the county had incurred such an extraordinary expense.

The committee felt that it was due firstly to a 'loose and partial execution of 17 Geo II'. The quarterly searches for vagabonds were not being carried out; the whipping of rogues 'in a great measure if not totally neglected'; Justices did not make out proper duplicates of passes to be sent to the sessions, which allowed some vagrants to slip through unpunished; the passing of vagrants was not properly carried out by the officers; general inefficiency was rife: on the same day, 32 people were passed over London Bridge in different carriages from St Saviour, for instance, and similar disorganisation occurred in Frimley. The second reason for the large outlay spent on the passing of vagrants, in the estimation of the committee, was that the orders and directions of the court of Quarter Sessions had been disregarded and, more specifically, an order passed in 1745 which regulated the rates and modes of transport to be employed in the removal of vagrants. Instead of sending them by cart, they were being sent by the 'common stagewaggon' and furthermore, those who could walk were not being made to: in 1757, 1,040 had been passed by cart. To combat this neglect the committee came up with seven recommendations.

(1) A contractor should be appointed. This recommendation was acted upon and in 1760 the repatriation of vagabonds was firmly entrusted to private entrepreneurs, when a first contract was signed between two of the Surrey Justices and Thomas Buskin of St Saviour, Southwark,

carpenter (82). This practice, which echoed that used for the transportation of convicts to North America, had been introduced in Nottinghamshire as early as 1725 (83). Twice a week, Buskin had to collect the vagabonds from the three houses of correction and from a number of appointed places in the county, at 'Camberwell, Blue Anchor Lane, Horley, Capel, Chiddingfold, Thursley, Farnham, Frimley, Egham, Croydon, Kingston and Reigate'. The contract further stipulated that Buskin had to use a covered carriage for the vagabonds and provide a list of the person removed on the second day of each sessions. All this for £250 per annum, plus 3d per day per vagabond in detention and 6d per day per vagabond on the road back to the parish of origin. In 1771 another committee, set up to investigate the workings of the system, reported favourably on the savings which the contracting procedure had enabled the county to make (84).

(2) The committee then appealed to Justices, especially Justices in the Southwark area, to implement the act of 17 Geo II.

(3) Constables should be exhorted to punish rogues.

(4) The regulations of the Lord Mayor and Aldermen of London should be introduced in Surrey, (mutatis mutandis) to increase the apprehending of vagrants. These regulations to be posted in Southwark and in the villages on the main

thoroughfares.

(5) The Keepers of the houses of correction to keep alphabetical lists of vagrants, with descriptions of their appearances.

(6) People improperly passed to Surrey not to be taken on by the local parish officers.

(7) The rewards for the apprehending of rogues should not be too liberally granted. Of the £12 paid out in 1757, £10 had been paid in Kingston upon Thames, and Justices were asked not to be 'overgenerous' but suitably 'frugal' in their allocations.

The centralisation of the machinery for the removal of vagabonds was reinforced by attempts at making the policy effective from county to county. In 1747, for instance, the Middlesex bench sought to arrange an agreement with Surrey to control vagrancy over their borders and especially within the Bills of Mortality (85). There is no evidence of any response from the Surrey authorities, perhaps because the ineffectual machinery within the county made it impossible for Surrey even to consider the possibility of joint action with Middlesex at that date, but it remains that the trend towards increased efficiency was growing.

VI The implications of the Poor Law

In this study of the implementation of the Poor Law in Surrey, several points emerge: firstly, the increasing professionalisation and institutionalisation of the system of relief; secondly, and paradoxically, the fact that many cases were not relieved according to the procedure laid down by statute; thirdly, the importance of the financial criterion in the whole debate about the administration of poor relief - and a move away from the mediaeval and Tudor idea of the duty of the rich towards the poor. More generally, the consequences of the Poor Law have been interpreted very differently by historians. J.D. Chambers, for instance, suggested that the law itself was one of the causes of the extreme misery of the poor at the end of the eighteenth century (86). Dorothy Marshall, on the other hand, suggested that the weaknesses of the law, though they existed, have been overemphasised: the poor law provided a safety net for many destitute people (87). What is suggested here is that although the practical effects of the law were important, in the sense that it provided relief to many people and was used to browbeat many others by removing them against their will or by threatening to remove them, the law had probably even more significant 'moral' implications (in the sense that the poor law affected even people who had not fallen on hard times). Some of these I shall be investigating in the next chapter.

CHAPTER SIX: LOCAL GOVERNMENT AND THE INDIVIDUAL

I The failure of local administration

Using conventional criteria, it may be said that the administration of the county of Surrey in the eighteenth century was ineffectual. After all, few criminals were arrested, few victims compensated; the county gaol was dangerous to its inmates, the houses of correction failed in their purpose; the maintenance of the roads remained problematical, the transportation of convicts expensive, the treatment of vagabonds cruel and the relief of the poor demeaning. Comparisons with studies of the administration of other counties reinforce this impression. Investigations of the Nottinghamshire, Middlesex and Gloucestershire administrations of the period tend to echo the criticisms made here.

Perhaps because it was confronted with fewer of the problems which Middlesex had to deal with, for instance, the Surrey bench presents itself as an essentially unimaginative authority, more concerned with the illusion of implementing the law than with administering the county. The court took few initiatives, although this may be partly explained as a result of its mediaeval constitution, which encouraged passivity. Speaking of Middlesex, Dowdell noted:

> Justices who sought to make their administration really thorough and vigorous were hampered by very serious difficulties inherent in their constitutional position, and this must be borne in mind when judgement is passed upon the achievement of the magistrates of the time. (1)

- but this could be applied to the justices of any county.

That the machinery of local government needed improving was generally accepted. The passing of legislation such as the 1739 county rate reform or the piecemeal introduction of turnpike roads was an acknowledgement of its deficiencies. So were the frequent parliamentary debates on the poor law, even if these failed to produce any legislation. Locally, county Quarter Sessions were undoubtedly aware of many problems. Yet, even in Surrey, a number of developments heralded the nineteenth century overhaul in local government: we have already noted attempts at improving the administrative procedure and the criminal process of the court; the tighter control of the county finances; the professionalisation of the court officials; and a general awareness of the legislation and attempts at implementing it. These endeavours had relatively few practical consequences on the running of the county in the eighteenth century, except perhaps that the communications network was improved and that, with the introduction of contracts for the removal of vagabonds and for the transportation of convicts, the county was organising itself and its resources more efficiently.

In a sense, to assess the successes and failures of the system of local government in the eighteenth century is an irrelevance. It is the contention of this thesis that, in the period under review, Quarter Sessions administration was not so much about providing an efficient public service - although there were certain minima - but about law and order or, more broadly, about maintaining the existing order and controlling individuals who might threaten the status quo.

II The impact of local government on the individual

Justices, both in Quarter Sessions and on their own, together with parish officials, had extensive power over the lives of individuals. This is particularly true in the context of the criminal process, when convictions could lead to transportation, but these cases are exceptions and it is perhaps more useful, if more mundane, to look at the way that power affected generally law-abiding citizens. Two examples will illustrate the point: removal and law and order.

The debate about the implementation of the settlement laws has been summarised in the preceding chapter. What needs to be emphasised here is the use of removal as a threat rather than its full implementation. There is no doubt that removal orders were regularly used by parish authorities and that justices anxious to control the labour

supply in their area manipulated the law to their advantage (2). But this sort of interference is relatively rare by comparison with the numerous instances, as we have seen in the case of Mitcham parish of the threatened use of removal. Ordinary people were obliged to take account of the law of settlement, whether the law was invoked against them or not. There is nothing new, of course, in the suggestion that the law had damaging 'moral' effects. Chambers, summarising the views of Pinchbeck, Hampson and Marshall concluded that 'on the whole there seems to be no doubt that the economic effects of the Settlement system, however irritating and wasteful, were insignificant compared with the moral effects' (3). Yet it still seems to be necessary to describe the mechanism of this process, precisely because the repressiveness of the system is explained in terms of the law rather than ascribed to its administrators.

In the eighteenth century, and for the purposes of this thesis, law and order has been construed to include 'not only present-day police functions, but also what we may style the moral regimentation of the people' (4). While the cruder seventeenth century attempts at control, which included the regulation of dress for instance, had been discarded by our period, the presentment of what was judged to be idle behaviour, the banning of fairs, the punishment of swearing and blasphemy were severely, if erratically, enforced. The power of the justices was reinforced in the

course of the century, not only in connexion with the licensing of places of entertainment and public houses (important foci of working people's lives), but also, to reiterate that commonplace of eighteenth century social and legal history, to increase the protection of property.

Some contemporaries commented with alarm on this growth of the power of the justice, and especially in connexion with the poor law. A contributor to the Gentleman's Magazine of April 1737 was critical of this state of affairs:

> As all approaches towards absolute power and arbitrary administration ought to be strenuously opposed, so we should be more than ordinary careful that such superior powers never come into the hand of so inferior a magistrate as a justice of the peace; who is not always wise enough, often to be trusted with the extraordinary powers of both original and final jurisdiction; of this I am sure, should the English justice be transformed into the Turkish Bashaw, the Briton would have very little reason to boast his superiority of freedom over the Musselman ... this general power of adjuging persons dangerous to the people may prove of fatal consequence, since any one, who either by voting at elections, contrary to the inclination of the justices, or by any other means may incur their displeasure, may easily be adjuged within the description of these general words, dangerous to the people, and suffer the punishment of incorrigible rogues, which by this bill is made tansportation, and for which sentence there lies no appeal. (5)

Even the staid Richard Burn noted with the hint of a raised eyebrow the power of a justice to overrule the provisions of acts of parliament about begging (6). And the House of Commons found the poor law 'vexatious' to the poor,

in its discussion of the 1735 report on the poor laws (7), a position which was re-stated in the London Evening Post in the harsh winter of 1740/1:

> Some people are apt to propose a thousand over-curious questions to people in necessity, examining them about their place of birth, their education, their way of life, and their profession (thereby framing to themselves some excuse for not relieving them) or interrogating them very much about their healthy looks and good constitution, and in their own minds reproaching them those blessings as so many crimes. It is doubly cruel and insulting to take up their time thus at winter with such frivolous questions and excuses. (8)

With the criminal cases, the justices' control of the process of indictment is more obvious. Not just, as we have seen in the preliminary stages of an enquiry, before an indictment was made up, but even after the bill of indictment had been drawn up. Consider these letters to the Clerk of the Peace:

> 1 Sir - if the court is pleased to discharge Mrs Webber on a small fine for her barge being laid in the road from Mortlake to Barnes, I shall bee very well pleased with it, she having promised nevermore to be guilty of the like offence ... (9)
>
> 2 Sir - I have received your kind letter of the 27th of the last month wherein you mention that the two Maskells are to appear tomorrow at the adjournment at Southwark to abide the judgement of the court on my two presentments, I intended to be there, but am hindred by the gout, therefore I desire to acquaint the court, that those two Maskells have during the time of the said presentments behaved in an insolent & daring manner towards me, & abused me with vile & opprobrious language, bragging in all places that they would not remove the nusance & would see me

out, - besides which the saw pitt was not only a nusance but a reall damage to one John Mellissente one of whose cows (being with calf) fell into it, & with much difficulty was got out, but the calf she went with was lost, for which losse the said Maskells would make no reparation to the said Mellisente. Besides they had scituated the saw pit so as threw all their saw dust into the spring water thro´ that ditch (which water served to the people upon the hill for pot water), & thereby was spoyled of which I have had many complaints. I hope the court will take all these things into consideration & fine the said Maskells at least five pounds. Pray my most humble compliments to Mr Chairman & the rest of the Gentlemen of the bench ... (10)

3 Sir - Be pleased to instruct the bearer what security is requisite to be found for the good behaviour [of] Thatchford now in the house of correction & how he may most easily be discharged. The fine, if I remember, is small. And I am not of opinion that courts should be too rigid in exacting great security ... (11)

4 Sir - I received the commands of yours, & the court with regard to the adjusting the difference between Master John Russell, Sir William Clayton´s tenants, & James Beaver, which I am sorry to say I have found impracticable. Beaver, tho´ under many obligations to me, for suffereing him to live rent free upon some land of mine, & assisting him in the cultivation of it, from time to time had the insolence to use me ill, to my face; & treated me with terms that I am ashamed to mention, [& at] the same time that I did not committ him; which I did, indeed, omitt, upon the consideration of his appearing before the court tomorrow, where my personal attendance is prevented by a hurt upon my legg; & when I hope his treatment of me will be properly taken notice of. In short, if he is suffer´d to return without some suretys for his good behaviour, & I do not know where he can possibly find any, of sufficient credit & importance, I must, upon my conscience, declare that it will be dangerous to the peace of this neighbourhood. His conduct being worse than much I have ever heard of amongst his abandoned sort. I thought it incumbent upon me, as a magistrate & being persued with your commands in this particular to say thus much ... (12)

5 Sir - I had thought to be at our Sessions on Tuesday next but whither I got cold coming from

Dorking last Thursday or now, I have such rheumatick paines in both my thighs, as make me unfit to travel. As the treatment I receiv'd from the two felows bound over, was so very base; to be stop'd upon the road, after I had got off my horse, in order to walk by their waggon, as they had refus'd to suffer me to go by it on horseback; and assaulted by one with a great stone in his hand, and the other, at the same time, laying violent hold on my collar, horribly menacing and making others to dart the butt end of his cart whip in my face; at the same time knowing who I was, as they then confess'd, and I even then told them I was going to Dorking to do the duty of my office. If, by my not being able to appear at this session, these fellows cannot be brought to such a sense of crimes ... could they not be continu'd on their recognisances? Or, which may be better, I may take them to task at our next assises ... (13)

6 Sir - I send these recognisances, in order that Samuel Childs the defendent may be indicted for the offence mencionned in the condicion. He is a most audatious felow and has abused Mrs Turber, Mr Talbot and every gentleman in these parts. His method is, to cry in this town publicly, whatever he thinks proper upon persons characters, and amongst the rest of his performances, he cryed it in the Town that Piper (the prosecutor) starved the poor in our workhouse, he having taken it of our officers and this was done with an intent to raise a mutiny in the workhouse; I think 'twill be best to indict him generally as a common disturber of the peace after the prendent in officium Cler' Pacis fo 18s. I wish you'd speak to the foreman of the Grand Jury in favour of the bill and that the bill may be found tomorrow whilst Mrs Turber and Mr Talbot are in court. If defendant traverses, I shall hit him at Reigate; if he pleads guilty, desire Mr Ballard to move that his fine may be respited to next sessions. Piper will pay all fees &c ...
... If the bill is not found there will be no living in this town, for the rascal proclaims Mrs Turber to be Nan Rawlins, Mr Talbot to be a poor worthless man and myself to be Turpin, the highwayman. (14)

A number of the assumptions made by the justices in these letters are of interest. Firstly, there clearly is no

embarrassment at attempting to interfere with the outcome of a case, although some felt a need to explain and justify their position. It is surprising that they should even be so involved as to attempt to control the finer details of the outcome of the case: suggesting that the fine should be at least five pounds, for instance. They made their aims quite explicit, too: in letter 4, asking for creditworthy recognisances, while acknowledging that the defendant could not raise them, amounted to asking the bench to imprison the accused. The last letter is interesting in two particulars: the justice is not the prosecutor, but is clearly closely involved in the prosecution ('Piper will pay all fees ... '): one wonders how frequent this sort of arrangement was. More important still is the assumption made in that letter that the foreman of the Grand Jury could be approached in a very straightforward fashion to produce a true bill. While it varies from correspondent to correspondent, there still survives a quasi-feudal feel about the way in which people are described as belonging to the local landlord: 'tho' under many obligations to me'; Sir William Clayton's tenants' and so on.

Indeed the criminal process provides most of the examples of the use of coercion, both the threat of punishment and the calling in of the military. In 1727 eleven soldiers were employed to escort a suspect to the county gaol, which suggest a reliance on soldiers for

relatively routine work (15). A perhaps more typical use of soldiers is recorded in the following example, which deserves a lengthy extract as it exemplifies crowd behaviour too. The anecdote relates to a story of commercial rivalry and jealousy between Mr Oades, a Quaker potter of Gravel Lane, Southwark, and his sons. After lengthy disputes, the sons eventually got their father arrested and effected the expulsion of their mother from her dwelling:

> This act attracted the notice of the populace, who seldom fail to adopt the right side of a question of justice and as usual they began to execute summary vengeance on the house. The sons, an attorney, and another person secured themselves within it, whence they read the Riot act, and fired immediately after; a bullet entered the head of a woman, who fell dead; the assault then became more furious and persons were sent for Mr Lade, a Justice; that gentleman bailed the father, and commanded the sons to submit in vain: he therefore found it necessary to send for a guard of soldiers, who arrived and commenced a regular siege, but the fortress was not stormed till two o'clock in the morning, when a courageous fellow scaled a palisade on the back part of the house and admitted his party, who rushed in, and secured the garrison. The son of Oades who shot the woman was tried for murder, found guilty, but pardoned on his father's intercession, provided he banished himself. (16)

It should be stressed that coercion, whether direct or indirect was not used systematically; nor was it necessarily used for mercenary or self-seeking motives: appeals by justices on behalf of poor people, of their tenants, or of parishioners are frequent in the court record. But these emphasise the dominance of the justice in the system and

reinforced the position of the landed gentry in the local community. How individuals responded to such a situation becomes, as a consequence, an important aspect of the question.

III Individual responses to administrative control

There are three possible reactions to such potentially pervasive control: you could refuse to acknowledge the mechanism of control; you could defy it; or you could abide by its rules. There is evidence for all three reactions in eighteenth-century Surrey.

(i) Refusals

It is interesting that evidence for refusals to accept the rules of the system should survive at all. After all, resistance often was futile and the individuals involved would end up bound over or in gaol. It is significant that (in the narrower context of the criminal process) the legislation provided for a harsher treatment of a person who refused to plead, when the punishment was the peine forte et dure, than of a person who committed perjury (17). Clearly the legislators saw a refusal to accept the ritual of the law as an important breach of the customary code of conduct. It may be noted, however, that although the case of an imposition of a peine forte et dure was reported with

disbelief by the Craftsman in 1736 (18), the one refusal to plead recorded in Surrey was deal with by imprisonment. When in 1737, John Adams refused to plead to an indictment, the court ordered that he should be held in custody until he found sureties (19).

Refusal to acknowledge the law implied a willingness on the part of the individual to put him or herself beyond the pale and it is perhaps not surprising that the few other examples of this sort of reaction should be vagabonds, who, after their arrest, refused to give their particulars. The Southwark house of correction calendars recorded at least seven such cases (20):

> Mids 1729: 'a man but with one eye'
> Mich 1730: 'a woman who refuses to tell her name'
> East 1731: 'a man thick set of middle stature aged about forty'
> Mich 1731: 'a woman who says she has no name'
> East 1739: 'a person who refuses to tell her name'
> East 1752: 'a person who calls herself nothing'
> Epipl759: 'the body of a person lying in your custody ... '

The vagabond presented the authorities with many problems, but surely none so vexing as a complete contempt for the rules of the game.

(ii) Defiance

Defiance of the law, either by acting criminally or by

disregarding administrative convention, is better documented. Individual acts of defiance, even of a political nature are chronicled in the records of the court. The 1745 Rebellion provides a number of such examples, of which we may mention the following:

> The several informations of John Haywood a recruit Samuel Whitworth a soldier William Bowler corporal and Michael Goodman serjeant belonging to Brigadier General Bligh´s regiment of foot taken on oath before the county of Surrey.
> And first the said John Haywood for himself saith that being at the Goat & Crown a publick house near St George´s Church Southwark, on the twentieth of November instant about nine o´clock in the evening where one John Pain was drinking he this deponent heard the said John Pain say damn the King the royal Family & all that belong to it. And the said Samuel Whitworth for himself saith that hearing the said John Pain abusing several of the recruits then in the house told him the said John Pain that he ought to have a better regard for the Crown of England than to abuse it upon which the said John Pain said Damn you the Crown of England & all that belongs to it. And the said William Bowler for himself saith that being informed by the aforesaid John Haywood that the said Pain had spoken disrespectfull words against his Majesties person & government he this deponent thereupon went to the said Pain & asked him the reason of his behaving in such a manner upon which the said Pain answered Damn you & the Royal Family. And lastly the said Michael Goodman saith that it being represented to him by the aforesaid Samuel Whitworth that the said Pain had behaved as before mentioned I immediately went for a constable to assist him this deponent in bringing the said Pain before a magestrate & upon his return the said Pain asked this deponent what he had to doe with him and upon being answered by this deponent he wanted nothing with him but to bring him to justice the said Pain replied God Damn you and your King ... (22)

But the implication is rather that the people involved

were non compos mentis or irresponsible (as in the case of Samuel Childs above) rather than thinking political agitators.

The interpretation of crime as a form of protest against the establishment has come to the fore in recent research. Specific forms of crimes such as poaching, arson or smuggling might be seen in that light. J.G. Rule argues persuasively that, while there are many pitfalls in the development of such a concept, it is still one that might be usefully applied to the eighteenth century (21), although, strictly speaking, for that period, justification for defiance might be explained more accurately in terms of traditional customs or of 'natural justice'. In this context, crowd behaviour ('mob rule') becomes significant. In the example cited above, there was a feeling that in J.P. Malcolm's words the 'populace seldom failed to adopt the right side of a question'.

A related phenomenon is the interest which the general public took in criminals and their trials. For every prosecutor who wanted retribution, there were many others whose attitudes were more ambivalent. The crowds that gathered in courts and at executions did not attend, in the main, to see justice done: it may be argued that they attended to participate, vicariously admittedly, in the defiance of the establishment rules. It is in this context

that the behaviour of the people condemned to death, who decked themselves out for the occasion should be seen. And if it is not surprising to find the Gentleman's Magazine decry such behaviour or disapprove of highwaymen and their feats (23), the tone of other newspapers is perhaps more ambiguous. The report carried in the Craftsman of an attack on Barnes Common by a highwayman supposed to be Dick Turpin, is one of the many which eventually contributed to elevating him into what Hobsbawm has termed 'the social bandit pantheon' (24). Similar inferences may be drawn from other contemporary sources: broadsheets, ballads, the Newgate Calendar, and so on. Christopher Hill noted this trend:

> An interesting literary fashion was the cult of crime and roguery. Moll Flanders, The Beggar's Opera and Jonathon Wild are "literary" examples of the genre, just as the vogue of books about pirates and highwaymen, and the Newgate Calendar, testify to a similar interest at a lower level. This lower-class literature reflects a genuine social reaction: sympathy for smugglers and highwaymen, moral support for condemned criminals at Tyburn all bear witness to a popular hatred of the state and its law. (26)

And even this type of matter was presented in more respectable forms for a more respectable readership: witness the publication, in 1745, of the Select and impartial accounts of the lives, behaviour and dying words of the most remarkable convicts from the year 1700 ... (27)

Instances of resistance to administrative prescription

are commonly found in connexion with such onerous duties as watch and ward duty and statute labour. What we are talking about here are not cases of forgetfulness but of cases where, after being reminded, the individuals concerned refused to act and were indicted by the court. While this does not represent a 'social crime', it certainly is a refusal to recognise authority, although the people concerned might not explain their behaviour in those terms.

A number of refusals of administrative regulation are also recorded in connexion with the Poor Law. We have already noted in Chapter One the difficulties which the parish authorities encountered in forcing the recipients of poor relief to wear distinguishing badges. Frederic Turner recorded in Egham the case of Widow Smith who lost her dole after obstinately refusing to wear the badge (28). At Tooting, in 1747, Mrs Miles was taken to the Justices for breaking the windows of the poor house (29).

Personal confrontation with persons in authority or in the public eye, be they justices of the peace or their friends, were common. The Loseley charges make this clear: 'You are to present all treasonable & seditious libells against His Majesty or his ministers of state, other great men or magistrates ... ' (30). Even in the context of straightforward administrative business, as the following example shows, angry exchanges were not unknown:

> Sir - Being forc'd to attend the service of the House I hope I shall bee excused attending at Sessions this time and that you'll let one Griffin of Thames Ditton constable last year not be discharged but direct him to the adjournment. I was an eye witness of his insults in mine and another justices presence & in regard to Mr Wells whom I hear will be still abused by him & therefore I beg you'll take care not to forget this particular. Mr Harding was not present & therefore he'll not interfeer in it ... (31)

How conscious these attempts at defying authority were is arguable. Clearly, though, they were interpreted as such, both by the crowd that gathered in the courts and by the Justices involved.

(iii) Acceptance

The third type of response, by far the best documented type in the records of the court and for obvious reasons, was that of acceptance - the acknowledgement of the power of the bench coupled with attempts at getting the best possible outcome within the rules. This form of response could be seen to operate at its most blatant with petitions to the bench, in which the petitioners humbly begged the court to grant their request in obsequious terms:

> May it please your worship; that I your unfortunate offender do most humbly beg your worships pardon; for that gross offence that I have gave you, most humbly begging your worship, not to appear against mee, which will be the utter ruin of me, I begg your worship to consider my poor wifes condison, she having so lately layne in, & is allmost in a starving condition, I must

> humbly conffess my callamity is justly deserving upon me; & am allmost asham'd to crave your worships mercy unto me; butt humbly crave your worship to hear my sad complaint; and will never more provoke your worship anymore so long as I shall live; from your worships most unfortunate servant, ... (32)

There were more subtle ways of handling the situation, of course:

> [I am] unfortunate as to be obliged to trouble you with this scrowl [and to beg] your honours assistance ... I had the misfortune to quarell with the young woman I kept company with those three years past and she in her passion had a warrant against me and taken before Mr Justice Nicholson of the Bridge Yard when I was very much in liquor and she aggravating me there I foolishly made an offer to strike her which she avoiding struck her head against the window and broke some of the glass for which he comited me to this prison. I am to appear at the adjournment at St Margaret's Hill on Wednesday next where I expect to be severely dealt with unless your honour will befriend me. I heartily beg pardon for this trouble and hope by my future conduct to make your honour amends for your great goodness towards me. I most earnestly implore your honours friendship towards me now and beg leave to subscribe ... (33)

The court was petitioned on all sorts of issues: by aggrieved debtors; by wounded war veterans or by their widows; by people seeking appointments as gaol keepers or county bakers; by workmen who had completed work for the county and wanted to be paid; by prisoners; by parish officers, and so on: it was the obvious way to approach the bench with a request. But the key to finding favour with the court lay in acknowledging its power. Witness the case of

Mary Farlton, who, 'having now openly and publickly been guilty of a contempt of this court stands committed to [...] custody but haveing since made an humble submission is ordered to be discharged' (34).

Acceptance did not necessarily imply servile deference: it could simply represent a realistic assessment of the situation. That this calculating attitude was common among the people who came into contact with the court becomes obvious with the defendants' pleas. As long as the punishment laid down by the court was symbolic and unthinking - as it was at the beginning of our period when the court systematically fined convicted offenders - defendants were more likely to plead guilty. When, as it did by the end of the reign of George II, the court introduced a wider variety of forms of punishment, the percentage of pleas of guilty dropped from 59% to 17%. It may be suggested that, in a sizeable number of cases, the defendants were aware of the likely outcome of their case and knew the risks involved; they knew what to admit and when. This interpretation is supported by further evidence gleaned form the depositions to the court. A number of suspects refused to sign their declarations, for instance, while others refused to admit anything at all to the investigating justice. People realised that there were significant advantages to obstructing the procedure. They had some idea of how sympathetically their cases might be heard. It is

significant for instance that no appeals against removal orders were undertaken by the people who were subject to them, although in theory both the mechanism and indeed the grounds for such appeals were not lacking. Accepting a system implies accepting its vicissitudes and this raises the question of why ordinary people took their cases to court at all, when they were aware of the serious shortcomings of the system. They were not under the illusion that justice was impartial. It is more likely that the courts of justice were accepted by the majority of people as the best of a bad job. And it would be naive to see the court operating solely to oppress the poor, the rebellious, the workers. In a large number of cases the prosecutor was hardly better off (if at all) than the defendant. Many prosecutors brought trivial complaints to court. Yet that judges should always be recruited from a different social group remains the more significant fact; the process described here emphasised the role of the justice as arbiter of people's lives.

The rules which governed this process were clearly understood by the protagonists, whether they were accepted or not. The relationship between the arbitrator and the 'arbitrated' is relevant to the issue of paternalism, and we might pause here to consider it.

IV Deference and paternalism

Deference has always been present in the relationship between the rulers and the ruled in modern British history. What we are looking at here is a particular expression of that deferential relationship which various historians have termed paternalism. E.P. Thompson has addressed himself to this problem on several occasions and this discussion takes his analysis as a starting point. His work has investigated two aspects of the question, the mechanisms of paternalism and the 'theoretical implications of this particular historical formation for the study of class' (35). While we are more concerned here with the former, the definitions developed in the latter are important:

> To resume: paternalism is a loose descriptive term. It has considerably less historical specificity than such terms as feudalism or capitalism; it tends to offer a model of the social order as it is seen from above; it has implications of warmth and of face-to-face relations which imply notions of value; it confused the actual and the ideal. This does not mean then the term should be discharged as utterly unfit for service. It has as much and as little value as other generalized descriptive terms - authoritarian, democratic, egalitarian - which cannot in themselves, and without substantial additions, be brought to characterize a system of social relations. No thoughtful historian should characterize a whole society as paternalist or patriarchal. But paternalism can, as in Tsarist Russia, in Meiji Japan, or in certain slave holding societies, be a profoundly important component not only of ideology but of the actual institutional mediation of social relations. (36)

And I am concerned here with the paternalist component of local institutions - or more specifically the paternalistic role that local institutions were taking in the eighteenth century. In his earlier essay, E.P. Thompson describes the 'erosion of paternalist forms of control through the expansion of 'free' masterless labour' (37), and he shows that by the eighteenth century, the customary expressions of paternalism (dependent as they were on familiar and personal relationships) were disintegrating. It might even be argued that what was collapsing in the eighteenth century were the Tudor attempts at stabilising an already decaying system. Put another way, in the eighteenth century, even the myth of paternalism was being eroded. What was growing in place of the old relationship was what might be termed 'institutional paternalism' - a system which exonerated members of the ruling class from personal commitment and 'sanitised' the relationship between the rulers and the ruled through the use of institutions. By the beginning of our period a new deferential relationship, which had much in common with paternalism and which had a longer genesis than might be expected, had developed. A different emphasis might be put on the essential features of this relationship, many of which have been described by Thompson in the essays mentioned above:

(a) It is a relationship which is less demanding for the rulers. Their personal social responsibility diminishes, although it is replaced by a vaguer, collective and

institutionalised responsibility for the vulnerable members of the community. Contemporary arguments about the poor law should be seen in this context. This personal element is so central to paternalism that without it any deferential relationship is not a paternalistic one.

(b) A growing number of physical barriers divides the two groups. Their worlds are increasingly different. They are less likely to be living on the same premises, for instance, or sharing their meals or enjoying the same recreations. As the relationship becomes more public (because it moves away from the home, the manor, the farm), so the points at which the rulers and the ruled meet are fewer. Those meetings become important representations of where the respective actors stand in relation to each other.

(c) The relationship is protected by and enshrined in the law. Increasingly, legislation protects the propertied and subordinates the poor. Above all, institutions, notably local institutions, were promoted to a central role in the regulation of the relationship.

Against this background, the study of the workings of local courts of Quarter sessions is important, both practically because much legislation was enforced by them and psychologically because their impact could be significant. At Quarter Sessions, the magistrates were most commonly seen as 'arbiters' and the rest as 'petitioners', roles which conveniently fitted in with the ruling class

ethos: seen as an agency of social control rather than a mere administrative instrument, the court of Quarter Sessions could be said to have been very efficient.

PART THREE: THE COUNTY MAGISTRATURE

CHAPTER SEVEN: The Surrey Justices

Not all historians have resisted the temptation to see Justices of the Peace as unscrupulous manipulators, conscious of their power and anxious to exploit it to their own uses. The Webbs' now famous characterisation of eighteenth century justices ('The Justice of Mean Degree', 'The Trading Justice', 'The Court Justice', 'The Sycophant Justice and the Rural Tyrant', 'The Mouthpiece of the Clerk' ... and so on) (1) illustrates well this tendency to represent Justices as narrow-minded simpletons. Such descriptions are closer to caricature than to a serious attempt to understand the motives of the Surrey justices (whether or not the motives were clear to the justices themselves) and they result, at least in part, from seeing the justices as stereotypes rather than as individual people.

Instead of using stereotypes as an easy subject for generalisations, it would be more useful to investigate the lives of a few of these justices - bearing in mind all the pitfalls of biographical subjectivity - and then to move tentatively towards generalisations based on the views and experience of the men themselves, rather than on symbolic representations of their functions. Active justices were a

self-selected group, of course, and the picture that emerges from the following biographical sketches will not be wholly representative. That problem will be considered later in the chapter.

Part I: Silhouettes

A. Arthur Onslow

Arthur Onslow, Speaker of the House of Commons for thirty three consecutive years (1728 to 1761), was the most illustrious member of a family which had risen in the course of the seventeenth century to the role of first county family from relatively obscure antecedents. In his account of the family, C.E. Vulliamy explains its success in terms of a 'felicitous acquisition of wealth - partly through commercial enterprise, and partly (and perhaps more largely) through the almost unbroken Onslow practice of marrying heiresses.' (2)

Born in 1691, Arthur was the eldest son of Foote Onslow, one of the less distinguished members of the family. His educational progress was fairly typical for an eldest son of his class. From Guildford Free School, he moved on to Westminster school at the age of fourteen, and from there went on to Wadham College, Oxford, three years later. His studies at Oxford were interrupted in 1710 by the death of

his father who left the family in an embarrassed financial position. The following winter, Onslow started a career in the law, for which he had little inclination and in which he did not progress much, partly, according to him, 'for want of proper direction in my reading' (3) and partly because of the financial anxieties of the family. At this stage, the nadir of his fortunes, family solidarity came to his aid. The Onslow clan rallied round to provide moral and pecuniary support, and Onslow was soon appointed secretary to his uncle Lord Onslow, then Chancellor of the Exchequer, and from that position moved on to become treasurer at the post office. The importance of the support of the Onslow family to his personal achievement cannot be overemphasised, a fact which he himself acknowledged in the notes on his life which he wrote for his son. For though Arthur Onslow's relations with his cousin the third Lord Onslow, were not as friendly as they had been with his uncle, it was through family influence that he was returned to Parliament in 1719/20 as the member for Guildford borough. He discovered a congenial and satisfying responsibility:

> I will not disown that I was very intent to succeed in this new situation and found an ambition about me which I had never perceived before, not for profitable employments or riches which I have ever perhaps too much contemned but for fame and respect, which perhaps I have too much courted. (4)

It is perhaps not coincidental that as he was

establishing himself in the county where, in addition to becoming an MP, he was an active justice of the peace and often chairman of Quarter Sessions (5), an advantageous marriage to Anne Bridges, daughter of John Bridges of Thames Ditton, niece and co-heiress of Henry Bridges of Ember Court, should have suggested itself. Onslow recounts this development in his life with his usual straightforwardness:

> When Parliament was up I went into the country to my little retirement near Guildford, and there a very fortunate overture was made to me by Mr Corbett the clerk of the peace of our county (who had received some favours from my family) of a match with your mother. I immediately listened to it, and he and I by leave of your mother's uncle to make a visit at Ember Court, and was then and afterwards so well received in the family, though of a principle in public matters very different from that which I was of, that in a few months viz on 8th of October 1720 we were married at the church of St Paul's Covent Garden ... (6)

After their marriage the couple lived with Mrs Onslow's uncle at Ember Court: on the latter's death in 1726 the other half of the estate passed to Anne's sister Rose (who had married Onslow's brother) and was eventually bought out by Arthur Onslow. At the beginning of the reign of George II, then, his position and standing in the county was unassailable, and this financial security strengthened his resolve to keep himself independent in Parliament:

> I loved independency, and pursued it. I kept firm to my original Whig principles, upon conscience, and never deviated from them to serve any party cause whatsoever: and all this I hope and am

> persuaded, was what chiefly laid the foundation of my rise to the chair in the House of Commons without any the least opposition ... (7)

He was the obvious Onslow candidate for the county of Surrey in the 1727 election and though he claimed that (as the representative of the cadet branch of the family) he was better suited to the less prestigious Guildford seat, he bowed to the insistence of Lord Onslow and, accepting his financial support, was returned as Knight of the Shire on an extraordinary poll of 1900 votes. From then on he never experienced any serious opposition and he remained in Parliament until 1761.

He obtained the fame and respect he craved both in learned circles and more generally among politicians and the newspaper reading public. If it is not surprising to find his name appearing in reports of official functions, such as the one carried in the London Journal in June 1735, when Onslow 'viewed and measured the ground in Cotton Garden, for building a new Parliament House' (8), it is perhaps more so to read quite minor details about him in the press. The Daily Journal felt it worthwhile to report his removal to the country in October 1735: 'This day the Right Hon. Arthur Onslow Esq., Speaker of the Hon. House of Commons, sets out from his house in Leicester Fields, for his seat at Thames Ditton, in the county of Surrey' (9), while The Craftsman carried an account of a slight accident which happened to

him in March 1739, when his coach broke down in New Palace Yard (10).

To a well regulated political life he added a lively interest in the arts: he subscribed to many books and maps (11); had a number of books dedicated to him (12) and, fittingly, on his retirement from political life became a trustee of the British Museum, an institution in which he had taken much interest from the beginning and to which he bequeathed some books in his will (13).

Arthur Onslow's life reads like a moral fable: in his case, constancy, group-loyalty and parliamentary independence were rewarded. But the factors which shaped his success go beyond undoubted personal ability. The importance of the support of the Onslow clan has already been noted - and Onslow in his turn promoted the family interest whenever suitable situations arose. It was not just a matter of backing his brother or cousin (both of whom inherited in turn the position in the post office), but, more generally, of defending the political standing of the family both in the borough of Guildford and in the county. To this end, he exploited his position on the bench of magistrates:

> Being thus settled in Surrey and near Guildford and acting also as a Justice of the Peace, and being active in keeping up the family interest in that borough as well as in the county, I became generally known there and spent a good part of my time in that sort of business; but however I found

> time beside to carry on my studies, though I made little progress in my profession. The gentlemen of the country were generally very obliging to me and I had a good deal of respect shown to me from people of all conditions, and was much resorted to on all public matters which related to the country. What maintained and increased my consideration there and which I have ever since found of great use to me and have continued to practise even for some time after I was Speaker, was being the chair at the Quarter Sessions of the Peace for the county. (...) My education in the law made me soon a pretty good master of the business transacted in this Court, and having ever had a high notion of justice, and the regularity and dignity which ought to be preserved in judicial proceedings, I observed all this with great exactness, and laboured, from a principle of conscience I can safely say to avoid even the least appearance of partiality, not only in matters of justice, but in my general demeanour there, ... (14)

Similarly, his career in Parliament shows, in his careful handling of the Commons in favour of the government during Walpole's ministry and his successful protection of the latter after his fall, his determination to use his not inconsiderable power to achieve the political ends of his party (15). Despite his avowed intention of defending the family's position in the county and in Parliament by using his position on the bench and in the House, it was still possible both for himself and for contemporary and later commentators to think of him as 'impartial' in his dealings with people either as a magistrate or as Speaker in the Commons (16). Wilding and Laundry in their recent Encyclopaedia of Parliament, reiterated this interpretation:

> Certainly he set the high standards and traditions

> which have come to be associated with the office and, in the words of Dasent, 'was the first in the long catalogue to realise the supreme importance of the independence and impartiality of the Chair'. (17)

And in many ways his position was commendably open-minded: on religious tolerance (which he advocated), on the public reporting of parliamentary debates (which he encouraged); on bribery and the size of the army (about which he sided with the Opposition in Parliament), Onslow combined the independence of the Tory country gentleman with the principled liberalism of the Whig tradition. At the same time he kept a tally of favours owing and favours due, felt the necessity for the consideration of the gentlemen of the county, used the power of his family, and was not above holding the office of Treasurer of the Navy while occupying the speaker's Chair (18). And yet he was not a small minded, self-interested individual. Simply, his impartiality was firmly circumscribed by the expectations and motivations of his age.

B. Edward Gibbon

A good deal of detail about the life and character of Edward Gibbon, the father of the historian, is provided by the occasionally jaundiced accounts of his son. Even allowing for this bias, it seems clear that Gibbon senior was the sort of justice that the Webbs might have cited in

defence of their stereotype. Recent biographers have depicted him in an unattractive light, ranging from mild disapproval, 'a colourless country gentleman' (19), to quite dismissive assessments:

> The second Edward Gibbon (1707-70), like so many sons of rich and strong-willed fathers grew up to be a pleasant and affable fellow who could converse easily with either a ploughman or a peer, but who was a spendthrift with no great strength of character. (20)

Edward Gibbon senior was born into a wealthy family in 1707. His father had amassed a considerable fortune as an army contractor, a commissioner of customs and director of the South Sea Company; his mother was the daughter of a London goldsmith (21). Like Onslow, he attended Westminster school from 1716 to 1720 ('at that time Eton's chief rival as playing-field for the sons of the aristocracy') (22), and although the South Sea bubble scandal apparently interrupted his schooling, enough was salvaged from the wreck (23) to enable him to go on to Cambridge, and for a small Grand Tour that only lasted a few months and did not take him further than France (24). Gibbon had gone up to Emmanuel College with his own tutor, William Law, who, according to family tradition had based the character of one of the dramatis personnae of his work A serious call to a devout and holy life on his charge (25). It is attractive but superficial to see Edward Gibbon in the inconsistant, pleasure seeking Flatus. For though he gambled and spent freely and, even in

his more settled years, raced horses at Stockbridge, Reading and Odiham (26), much of his behaviour can be explained in terms of a well developed sense of duty or perhaps more specifically a clear sense of 'what was right' for a person of his standing. Thus his performance as an MP was unimpressive but steadily partisan, as his son reminds us:

> On my father's return to England he was chosen, in the general election of 1734, to serve in parliament for the borough of Petersfield; a burgage tenure, of which my grandfather possessed a weighty share, till he alienated (I know not why) such an important property. In the opposition to Sir Robert Walpole and the Pelhams, prejudice and society connected his son with the Tories - shall I say Jacobites; or as they were pleased to style themselves, the country gentlemen? With them he gave many a vote; With them he gave many a vote; with them he drank many a bottle. Without acquring the fame of an orator or a statesman, he eagerly joined in the great opposition, which after a seven years' chase, hunted down Sir Robert Walpole: and in the pursuit of an unpopular minister, he gratified private revenge against the oppressor of his family in the South Sea persecution. (27)
>
> ...
>
> Without daring, perhaps without desiring, to aid the rebels, my father invariably adhered to the Tory opposition. In the most critical season he accepted, for the service of the party, the office of alderman in the city of London: but the duties were so repugnant to his inclination and habits, that he resigned his gown at the end of a few months. (28)

And it is in that light that the two incidents over which he clashed with his son should be interpreted. First, that latter's conversion to Catholicism, then the possibility of his marrying a foreigner incurred Gibbon's

anger, more, as various biographers have noted (29), because of the undesirable social consequences of either act than because of any question of principle.

The death, in 1747, of his wife Judith Porten, whom he had married against his father's wishes, grieved him deeply. There is no doubt that, despite his generally irresponsible behaviour, his love and consideration for his wife were genuine; their relationship was a model in fact of Stone's 'companionate marriage' (30). This loss heralded the beginning of a gradual retreat to a rural, farming life in Hampshire. The expensive lifestyle at Putney, another of the properties bought by his father, could not in any case have been maintained indefinitely.

His son notes proudly, in his autobiography, the fact that Gibbon kept his estates in his own hand, and indeed leased additional land (31), but this did not prevent, and indeed may have hastened, the financial difficulties of the family. A first mortgage was taken out in 1758, and a second mortgage and the sale of the house in Putney became necessary in 1769 (32). The farm was not profitable; Gibbon's activities in the Hampshire militia and the costs and damages of an old law suit amounted to a quite considerable sum (33). These financial worries were often alluded to in Gibbon junior's correspondence with his father: 'I am afraid (excuse the freedom) that Oeconomy is

not the virtue of our family' (34). Similar references can be found in the papers of Dorothea Patton, Gibbon's second wife (35).

Gibbon's health, worn by these worries, worsened; he gradually grew blind and died of a dropsy in November 1770. His son was affected by his death, and commented: 'in the change of times and opinions his liberal spirit had long since delivered him from the zeal and prejudice of a tory education' (36).

This 'liberal spirit' is stressed by all biographers, and it undoubtedly reflects his character accurately. His ability and wish to get on with all manner of people, whether powerful or not, is another aspect of that trait. But he was nevertheless selective in the sort of acquaintance he had:

> Had the rank and fortune of my parents given them an annual establishment in London, their own house would have introduced me to a numerous and polite circle of acquaintance. But my father's taste had always preferred the highest and lowest company, for which he was equally qualified. (37)

Certainly his interest in education, the liberal arts or polite conversation was rather restricted. The smattering of French he learnt on his Grand Tour he forgot very quickly; his library was, according to his son, 'stuffed with much trash of the last age, with much high church

divinity and politics ... yet it contained some valuable editions of the classics and the fathers' (38). In his later years he took pleasure in reading the newspapers, but that seemed to have been the sum total of his intellectual exercise.

In spite of his many and fairly obvious failings, one is left nevertheless with the feeling that he was an attractive if volatile person, capable of compassion, and endowed with a genuine sense of fun: an idiosyncratic, rather feckless country gentleman.

C. John Thomas

By contrast with his contemporary Gibbon, John Thomas, Bishop of Rochester from 1774 to his death in 1793, was conventionally successful. Born in Carlisle in 1712, he was the eldest son of the vicar of Brampton in Cumberland. From Carlisle Grammar School, he proceeded to Queen's College, Oxford in 1730. After some teaching at an academy in Soho Square, he became private tutor to the younger son of Sir William Clayton of Bletchingley in Surrey (39). His career in the church started relatively late. Ordained deacon in March 1737 and priest in September of that year, he was instituted rector of Bletchingley, a living in the gift of Sir William Clayton, in the following January. In 1741, he returned to college, and took the degree of B.C.L. (40). A

further significant milestone in his career was his marriage in 1743 to Anne Blackwell, his patron's daughter and pupil's sister. His biographer, who was also his nephew, was at pains to show this marriage as a friendly and a loving one, although the way in which it came about may raise some doubt in the mind of more cynical readers:

> The preliminary circumstances of Dr Thomas's marriage with lady Anne Blackwell, relict of Sir Charles, son of the Sir Lambert Blackwell above described, are too singular to be passed over in silence. The Dr. had entertained a penchant for Miss G-n, the daughter of the bishop of Ely, and being in habits of friendly intercourse with lady Blackwell, he took an opportunity of requesting her ladyship to inform Miss G-n of his favourable opinion of her merits and person. To this request lady Blackwell frankly replied, that she 'should be very happy to render Dr Thomas any service in her power, but must own she envied Miss G-n such a compliment'. This answer, perhaps, might not wholly be unexpected; it was certainly not disagreeable to the Dr. (...) Nor could indelicacy be fairly imputed to a lady, who might be supposed to have discovered inclinations to which she alone could, under such circumstances of superiority in rank and fortune, give their proper expression: and in widowhood, with more propriety than in virginity. The result, however, was happy: thus united, they enjoyed an unusual share of connubial felicity for near thirty years. (41)

The match was not approved of by Lady Blackwell's sister, Sarah Clayton, who wrote:

> You must reasonable think it was no small [sic] greif to me [to] find my only friend had deceived me and it must be very uneasily to you to be so long parted from me whose friendship you have preferr'd to all and every body else excepting another new friend who as you observ'd must come and be with you for its [sic] not in my power or

> inclination if you can do such a thing against the declared will of so indulgent a father. (...) I am yet very loath to break that friendship w^ch^ begane from our infancy but how can I expect it shou'd last, when the man you have pitch'd on has long been my adversion and when you say you had no other friend in the world I did not know that he cou'd not be assistant to you without being a husband. You might a paid him for this trouble at a less expence. (42)

At any rate, from then on, he cumulated preferment: in addition to Bletchingley parish, which he retained for 36 years, he was appointed chaplain in ordinary to George II in 1748, prebendary of Westminster in 1754, chaplain to George III in 1760, subalmoner to the Archbishop of York in 1762, vicar of St Bride in London in 1766 (by special dispensation), Dean of Westminster in 1768, and finally Bishop of Rochester in 1774.

Thomas's life was dedicated to the church: not only as an institution within whose structure he worked, but also as object worthy of his personal and financial support. His will lists the causes to which he was committed: to each of the following, he bequeathed a hundred pounds: (i) The Society for the Propagation of the Gospel in Foreign Parts; (ii) The Society for Promoting Christian Knowledge; (iii) The Corporation of the Sons of the Clergy; (iv) The Society for maintaining and educating the orphans of the clergy; (v) The Governors of the Westminster Infirmary; (vi) The Middlesex Hospital. In addition, he left instructions for the endowment of an exhibition for the benefit of two sons

of clergymen of the diocese of Carlisle, for the building of a house for the vicar of Brampton and various gifts of money for the widows of clergymen (43). His will only gives a limited idea of his generosity, as he apparently supported various causes to the tune of fifty thousand pounds throughout his life (44). His commitment to the church, however, did not preclude the cumulation of offices or the appointment of deputies. Nor was he above a certain self-aggrandisement: after his death, the Gentleman's Magazine reported that he had purchased some land to have a monument erected to his memory in Westminster Abbey (45). But we should be clear that the ever-present pursuit of preferment and status could co-exist in Thomas' case with a genuine religious devotion, just as it could co-exist in Onslow's case with a genuine parliamentary impartiality.

His nephew suggested that the 'strain of his preaching was rational and evangelical' (46). The title of a few of his sermons might confirm this impression but also suggest a very orthodox outlook: 'The principles and practice of a popish government, destructive of civil and religious liberty', or again (rather improbably) 'The resurrection of the dead, illustrated by the changes and renovations of vegetable bodies' (47).

His was a strict but not a stickling personality. He was abstemious in his dietary habits; did not resort to the

law to get his way; instructed his servants in religious knowledge and insisted on communal prayer twice a day in his household. His biographer suggested that his life style fitted in well with the Claytons:

> This was such a family as suited his strict principles of integrity and honour (...) The Clayton family was remarkable for affording a contrast to the dissipation, luxury and profligacy of many fashionable establishments. (48)

The other main interests in his life in fact were his family and the arts, both of which accorded well with the Clayton outlook. His will emphasises his support of the Claytons, but his own family was not excluded either. In his lifetime, he helped his brother accede to useful positions in the church, for instance. His interest in the arts was probably stimulated by the fine collection of paintings which his wife had acquired by marriage from the Blackwells (and which included three works by Rubens, two by Salvator Rosa and one by Parmegiano). His biographer enumerates his musical and antiquarian interests, and summarises: 'his intellectual abilities were above mediocrity, and the endowments of nature were improved by the application of art and study. He had a lively and chaste imagination' (49).

Although we should take the comments of a sympathetic biographer with some reservations, there is no doubt that Thomas was a 'good man'. His charitable activity sums up his

outlook: he could be immensely (and ostentatiously) generous to establishment causes.

D. Abraham Tucker

Abraham Tucker is perhaps best remembered for his influence on Hazlitt, who insisted in his introduction to Tucker's magnum opus, The light of Nature Pursued, that he did not 'know of any work in the shape of a philosophical treatise that contains so much good sense so agreeably expressed' (50). In most particulars, however, his life was rather dull, if comfortable. Indeed one of his biographers noted:

> All that is known of the circumstances of Tucker's uneventful life might almost be contained on a half-sheet of notepaper, and we may learn more about him from the personal details with which he occasionally illustrates a philosophical problem than from the meagre biographical sketch which his grandson prefixed to the 1805 edition of the Light of Nature. (51)

Born in London in 1705, he was the son of a London merchant and was brought up by a maternal uncle (52). He attended school in Bishop Stortford until 1721, when he went up to Oxford to study Mathematics, Metaphysics, French, Italian and Music. In 1724, he entered the Inner Temple, and though he applied himself closely to the study of the law, he was not called to the bar (53). In 1727, he purchased Betchworth castle, near Dorking, where he settled for the

rest of his life; he also had a house in Great James Street in London, where he spent several months of the year (54). In the country he managed his own large estate and as Fyvie noted,

> It is characteristic of him that he committed to paper a number of observations on this subject which he had selected from various authors, both ancient and modern, together with remarks which he had made himself or had collected from the experience of his neighbours and tenants. (55)

His marriage, in 1736, to Dorothy Barker, daughter of Edward Barker, of East Betchworth, Cursitor Baron of the Exchequer and a Surrey Justice of the Peace himself, probably reinforced his attachment to Betchworth. By all accounts, this was a happy marriage: Tucker transcribed his love letters in a notebook which he entitled 'Picture of artless love' (56), and his wife and two daughters make brief but regular appearances in his book as Eurydice, Serena and Sparkle. After his wife's death in 1754, he devoted himself to the education of his daughters and to writing his main book, The Light of Nature, which he began in 1756. This work, 'the scheme of a reconciliation between religion and reason' (57), is a personal statement: it rarely refers to contemporary literature or philosophy. But it does more than provide clues about his family life, it sketches out a coherent set of personal beliefs. A summary of the chapter headings of the book gives some idea of its rationale:

> BOOK ONE: Of the human mind; including faculties of the mind, Satisfaction, Judgement
>
> BOOK TWO: Principles of human conduct; including Knowledge and conception, Sympathy, Passions, Pleasure, Honour, Rectitude.
>
> BOOK THREE: Natural Religion; including Independent existence of mind, Omniscience, the Vision, Equality, Future punishment.
>
> BOOK FOUR: Established doctrines; Freedom of thought, Miracles, Christian Scheme, History of man.
>
> BOOK FIVE: Miscellanea; including Employment of time, Contentment, Vanity, Fashion, Education, Death.

Hazlitt reckoned that the best chapter was 'the Vision' in Book Three, which recounts a meeting with his wife after her death, and comments on their life together:

> [You were] my pleasure at home and my credit abroad. I never knew what a happy life was till you taught it me, and have never felt it completely since your departure. (58)

and on the progress of their daughters:

> So I scarce ever give them any rules; but as I am much with them, attend to their prattle, and endeavour to lead their thoughts gently into such trains as tend to their improvement. (59)

But while his opinions on the education of children reveal much about him, it is more with his views on religion and politics that we are concerned here. In this context, he tried to strike a balance between what he considered to be

extremes. Thus he could decry both the 'despondencies and aridities of Methodism' and the 'misgivings of freethinking' (60). He was a convinced Anglican, but that commitment was broad enough to accommodate other beliefs, provided they did not threaten the state:

> On the other hand, the present Dissenters have nothing in them to be dreaded: they are a quiet, inoffensive set of people, raising no out-cries against the church, but often joining with her in repelling the attacks made against revealed religion; seldom writing or speaking against our established forms and discipline, and satisfied with the protection afforded them, whereby they can enjoy their scruples in security. That spirit of enthusiasm, which raised such combustions of old, is now drawn off into another channel by the Methodists, where, though it be very pernicious to many private persons, it is not in the least dangerous to the state. (61)

While his biographers maintain that he 'had no turn for politics' (62), that assessment oversimplifies his position. For though he consistently and unhesitatingly refused to stand as a Member of Parliament, and though he advised against joining political clubs and assemblies (63), he nevertheless took an interest in elections and subscribed to broadly liberal values. In his Country Gentleman's Advice to his Son, he suggests:

> Manage so, that if your neighbours will rank you under some class, they may call you a Moderate Whig, rather than by any other denomination: but do you yourself disclaim all marks of distinction; desire no appellation but that of an honest Englishman, a sincere hearty lover of your country, and every individual thereto belonging;

> and endeavour to square your actions agreeably to that character: for in so doing you will act most comformably to the precepts of Christianity, the light of natural reason, and the truest wisdom. (64)

He was sufficiently interested in politics to attend a county meeting at Epsom where his performance was subsequently ridiculed by Joseph Mawbey (himself a Surrey Justice) in a ballad which suggested that Tucker had been mesmerised by the speeches of the Whig leaders (65). It is a mark of Tucker's sense of humour that he set Mawbey's lyrics to music.

There is no doubt, however, that Tucker was more interested in the problems of the individual than in social injustice. The titles of his other works suggest this strongly. His Freewill Foreknowledge and Fate and his Man in Quest of Himself were both published in 1763 under the earnest pseudonyms of Edward Search and Cuthbert Comment (66). This tendency to see dilemmas in terms of individual predicament and his acceptance of Anglicanism emasculate his potentially radical thinking. Thus, though he believed in equality (and this could have been of some significance at Quarter Sessions, for instance), it is an equality tempered by a desire to maintain the status quo:

> One principal object that I have had all along in view of the foregoing disquisitions, has been to establish the doctrine of equality, or that all will, sooner or later have an equal share in the

bounty of Providence. (67)

In that respect Tucker's position had absorbed much of what Basil Willey has termed 'cosmic Toryism' - which proposed that 'the status quo represents the last word of divine wisdom and goodness' (68). Tucker lacked the dynamism of more famous thinkers such as Voltaire, Holbach and John Wesley who challenged such as interpretation. His world was urbane and reasonable. He too was abstemious; took exercise (he walked a lot both on his estate and in London); studied with application; performed the duties that were expected of him responsibly. When, in old age, he grew blind, he accepted his infirmity with equanimity and invented a machine which enabled him to write sufficiently legibly to have his papers transcribed by others. Of his death, his biographer noted piously 'he died as he lived, with perfect calmness and resignation' (69).

E. Micajah Perry

Micajah Perry represents another of the more easily identified types of justices of the peace: the merchant-justice, although the allegation that he was either venal or greedy was not made by his contemporaries.

Born in 1695 (70), he was the son of Richard Perry, a merchant and director of the Bank of England, and grandson

of Micajah Perry, 'the greatest tobacco merchant in England and agent for Virginia' (71). Little is known about his youth, although it appears that he spent part of it in Pennsylvania and visited Virginia at an early age (72). He spent the greater part of his life in London, however, although he did own some property at Epsom (73). His father died two years before his grandfather and it is on the latter's death, in 1721, that he inherited the family business jointly with his brother. What he was taking on, however, was more that just an ordinary commercial venture. At that time the tobacco trade was peculiar in a number of respects: in that very large sums were involved, that the merchants dealt direct with the producers and that they were expected to act in a quasi-official capacity in their commercial relations (74). Like his grandfather, Perry was sometimes called upon to act as a fiscal agent for the colonial government and to supply information to the Board of Trade in London (75). He also helped individual Virginian families in a number of ways: he might be asked to find schoolmasters for their children, handle charitable gifts, lend money or act as Treasurer to the Virginia College, an institution set up with the support of the elder Micajah (76).

With such a background, it is perhaps inevitable that he should have been drawn to public life in England and especially in the City of London. Elected Alderman in 1728,

he became, at almost the same time, Master of the Worshipful Company of Haberdashers (77); he was Lord Mayor in 1738 (78), and, from that year, Colonel of the Orange Regiment of the City (79). It is unfortunate that his activity as a City Father should be documented mostly from the official diary of his Mayoralty - an account more concerned with regalia, procedure and precedent that with decisions, controversies or political arguments. The picture of Perry which emerges from this (he seemed obsessed with the colour of the gowns which he had to wear on different occasions) is unflattering but probably not wholly misleading. In the account of the election of his successor as Mayor, he again comes out as a person keen on procedure and ritual (80). More significant is the fact that, at a time when he was already a Justice of the Peace in Surrey, he was holding Quarter Sessions in Southwark, the Old Bailey and the Guildhall (81). His personal jurisdiction as Justice thus extended over a wide geographical area.

But it was as a Member of Parliament that he made his mark most forcefully. In 1727 he was returned for the City of London, as a Whig, though by 1729 he had joined the Opposition (82). He spoke against the Address in 1729, supported a petition to end the monopoly of the East India Company in 1730, and in 1732 proposed that 'a qualification in the funds be as good as a qualification in land for Members of Parliament'. He opposed the Molasses Act in 1733,

led the rebellion against the excise bill, and voted against the Westminster Bridge Bill of 1736. In 1741, he voted 'unexpectedly' against the motion for Walpole's dismissal. It is striking how consistently his speeches and political attitudes supported the mercantile interest in the Commons. Like Onslow, he regarded his election to Parliament as personally gratifying, but also as a success for City interests:

> But since I look upon my being a member of this house as the greatest glory of my life, since I look upon that day on which I was chose one of the Representatives of the City of London, as the most auspicious day of my whole life, I cannot tamely sit still and hear the whole body of the merchants of that great city represented by that honourable gentleman as a pack of rogues, smugglers and unfair traders. It is a treatment they no way deserve ... (83)

Clearly, his practical experience as a merchant coloured his political views and yet, in his case too, claims of impartiality and disinterestedness are made on his behalf by his friends:

> Two things are requisite in a Member for the City of London. Ability and Integrity. Both these meet in Mr Alderman Perry. The first is a truth too conspicuous to be denied, and the latter too well known to be disputed even by his enemies. If it was, the testimony of his competitor would be an indubitable proof of it. His behaviour in the last Parliament was steady and temperate, he was disliked by the Zealots of all parties and by the Moderate of none. All that has been ever objected to him is his following his sentiments at the expence of his interest; and however you may dislike this in an alderman, it is the greatest

blessing you can wish for in a Member. (84)

In the Excise debate, Perry himself emphasised the virtue of political independence:

> ... If this bill passes, if I continue in the same mind I am, I will quit my trade, as every honest man will do, for If I should offer at a seat [sic] in Parliament, is it possible I can act an independent part? No, sir this bill will subject me to arbitrary power, and my vote must be at the will of the Minister ... (85)

In parliament, Perry cultivated the image of the 'trader'. It is not surprising to find his described as one of the 'two tribunes of the London plebeians' (86). Certainly he did not appear on the Surrey bench very often - but then he met the gentry of that county in different settings. Witness this report in the London Journal of April 1735:

> On Tuesday, Micajah Perry, one of the Sheriffs of this City gave a general entertainment at Drapers' Hall to the Right Hon. the Lord Chancellor, the Right Hon. Arthur Onslow Esq., Speaker of the House of Commons, the Aldermen and other persons of distinction of both sexes. (87)

Thus, even if his aims and immediate interests were inimical to those of the county gentry, prudence tempered his outlook.

Little is known about his personality or his family.

His wife died in 1738 and they had no children (88). His last years were difficult. He lost his seat in 1741; his health failed; he encountered financial difficulties. In 1743 he went to Bath, apparently very sick. In 1746 he resigned his aldermanship owing to ill-health. The City of London granted him a pension of two hundred pounds per annum in the latter years of his life. He finally died in January 1753.

Part II: Group portrait

It remains to be seen how far generalisations from these sketches and biographical data from other Surrey Justices are useful. Perhaps the most striking feature of their lives is how different their personal experience was. Consider Onslow's discipline and Gibbon's idleness; Tucker's urbanity and Perry's aggression. Dissension among the Surrey Justices was common and not simply limited to political allegiance or religious belief. Personal animosity not only existed but could be exacerbated by court cases and property disputes. A notable example of this is the dispute over Westbrook Manor which divided the More Molyneaux and the Oglethorpes.

The Oglethorpes held the Westbrook manor demesne lands on which chief rents were apparently due to the More Molyneux but remained unpaid. The case was taken to court

and among the evidence held in the Loseley manuscripts, there survives Sir More Molyneux's instructions to the person who was to distrain two cows against the debt:

> If anybody ask you the reason for your so doing, say that you take the same as distress by order of Sir More Molyneux for chief rent due to him out of the mannor [sic] of Westbrooke, if any body ask how much due you may say the rent due is 3£ 3s for six years ending Michaelmas last at 10s 6d a year and if any body will pay you may take the said 3£ 3s and then may quit without more adoe. (89)

The instructions, which are very detailed, mention other small sums owing, give a description of what might be taken as distress (cattle levant or couchant) and emphasize that doors, fences or other property must not be damaged in the process. Clearly, this was part of a deliberate plan of action and it is difficult to believe that the case arose solely from such a small debt.

Like the Onslows and the More Molyneux, the Oglethorpes were a well-known and respected Surrey family; like them they produced individuals who cared about injustice and the world about them. General Oglethorpe, also a Surrey Justice, who established the colony in Georgia, and who, in England, exposed the appalling conditions which debtors had to suffer and wrote a pamphlet on the condition of sailors in the navy (90), would, in the normal way have been a friend of Arthur Onslow and Sir More Molyneux. Instead, distrust and dislike were evident: thus, in a duel which took place soon after

Oglethorpe's successful (but contested) return to Parliament as a member of Haslemere in 1722, he wounded Captain Onslow after a row (91).

Political disagreement is more readily documented. While the greater part of the active Surrey Justices who were MPs were Whigs (William Belchier, James More Molyneux, William Chetwynd, William and Kenrick Clayton, Paul Dockminique, Sir John Evelyn, Thomas Jordan and Arthur, George, Denzill, the two Richards and Thomas Onslow), a number of them were Tories (Sir Charles Vernon or Edward Gibbon, for instance); others changed their opinions (such as Sir Joseph Mawbey or Micajah Perry) or were classified as opposition Whigs (Thomas Scawen or Ralph Thrale).

Overall, the bench was dominated by the Whigs: a clear illustration of this is given by the poll book of the election of 1742, in which Lord Baltimore, an opposition Whig, opposed the Tory George Woodroffe. Although the vote was supposed to be very close, of all the active JPs who cast a vote in the election, 40 voted for Baltimore and 10 for Woodroffe (92).

Nevertheless personal antagonism surfaced in political settings. The exchange between Mawbey and Tucker has already been mentioned, but a more remarkable example is the election brawl between Richard Onslow and James Oglethorpe

in 1722. The facts of the case are rather difficult to come by, but according to the letter which Oglethorpe himself sent to the Daily Journal in answer to a report carried by that newspaper, when the two factions met in the market place at Haslemere (the seat which was being contested) some sharp words were exchanged, swords were drawn and at least two of the parties were badly injured. Duels in the Oglethorpe family, and indeed, among the group of Justices whom we are investigating, seem to have been frequent: within a month of his election, Oglethorpe had killed a linkman in possibly scandalous circumstances; his father killed an opponent in 1679, and his brother Lewis' 'greatest claim to doubtful fame lay in his challenge of, and subsequent duel with, Arthur Onslow for some remark made in debate' (93).

Yet in many ways, these differences dissimulate a shared outlook and common values. A first obvious bond is a commitment to the work of the county Quarter Sessions and a personal contribution to its work. After all, not all gentlemen were justices, and of those who were, not all - et il s'en faut - chose to turn up on the bench or at petty sessions. This interest in public service will be investigated in the following chapter; what we are looking at here is the mechanism of integration developed amongst the Surrey Justices. Two such factors - and indeed the ones most commonly described in studies of eighteenth century

gentlemen - are family networks and educational backgrounds.

A. Family networks

The importance of the family and family connexions have already been alluded to several times in the account of individual Justice's lives. It is perhaps ironical that loyalty to the family should be so important at a time when peoples perception of its function was changing. The move towards the companionate marriage and away from the clan, say, did not lessen the duty of the powerful members of a family to support those of their relatives who needed help; but that support was expected to take more institutional forms - support in applications for positions in the Church or governmental posts for instance rather than outright gifts of money or property (made difficult by law in any case) (94). It could be argued that this development towards institutionalisation is similar to that noted in relation to charitable bequests, mental health provision or the whole tenor of deferential relationships.

In eighteenth century practice, a good marriage, which as Arthur Onslow's account showed was not precluded by political divergences, was meant to offer financial security. Contemporary press accounts of marriages (restricted, of course, to descriptions of wealthy ones),

which almost invariably coupled the name of the bride with the amount of her marriage portion, make this clear. Certainly the Onslow practice of marrying heiresses was common enough in other Surrey families. The Claytons provide a similar example. Sir William Clayton married Martha Kenrick, daughter of John Kenrick, a City merchant. His second son William, who married Mary Ward (believed to be worth seven thousand pounds) and his daughters married well too. As for his eldest son, Kenrick, the London Evening Post reported his marriage in the following terms:

> Sir Wm Clayton, Bart., MP for Bletchingly in Surrey who has been dangerously ill for some time at his house in Soho Square is now in a fair way of recovery; and the beginning of next week, Kenrick Clayton Esq., his son and heir apparent is to be married to Miss Herring, daughter of Mr Herring, a very eminent wine merchant of Mincing Lane, a lady of 20,000 l fortune. (95)

The alleged divergence between the landed and the merchant interest must be seen against this background of intermarriage. There are many examples of successful established Surrey families with City connexions. Charles Boone, Samuel Kent, George Lewen, Charles Vernon, Francis and Henry Vincent, James Belchier, Edmund Halsey and John Hungerford, all active Surrey JPs, married into wealthy City families.

The Surrey magistrates did not merely marry women from the same sort of background; they were often related to each

other by marriage, cousinship or straightforward descent. Thus, as we have seen, Justice Thomas was related by marriage to Sir William, Kenrick and William Clayton; Abraham Tucker married a daughter of Edward Barker; and Richard Onslow, Arthur's brother, married Arthur's sister-in-law. A number of fathers and sons and uncles and nephews sat on the bench at the same time: Charles and George Vernon; Francis and Henry Vincent; Charles and Daniel Boone; John and Thomas Budgen; the two Williams and Kenrick Clayton; John and James Evelyn; the two Nicholas Harding; Ralph and Henry Thrale; the two Josephs Shaw; More and James More Molyneux (96). But for sheer weight of numbers on the bench, no family could match the Onslows. Between 1727 and 1760, six members of the family were active in Surrey: Arthur, 1727-57, Denzill, 1733-46, George, from 1756, Richard, 1727-47, Richard, 1735-59, and Thomas 1727-40. Their network was extensive too. In addition to straightforward marriage relations with other Surrey Justices (Richard, Lord Onslow married Mary Elwill, whose family was represented on the bench by Edward, Edmund and John Elwile in our period, for instance), the Onslows used their powers of patronage to good effect. It was by Arthur's influence that Anthony Allen, a justice active almost throughout the reign, became Master in chancery (97); Sir Henry Vincent, a distant relative of the Onslows, was brought in as MP for Guildford by that family's influence; Sir More Molyneux, a friend of Arthur Onslow, and Chairman

of Quarter Sessions, had a secret service pension of a hundred pounds per annum on the Speaker's list. At Quarter Sessions, the Onslow hegemony could not really be challenged. At the Midsummer session of 1735, for instance, four out of the ten justices present were Onslows (98); when one considers that More Molyneux and John Fulham (Chaplain of the House of Commons and probably related to a former Guildford MP) also attended that meeting and that Arthur was in the chair, one might be forgiven for speaking of a clique.

Of course, these examples do not bring in those justices who, though active, were neither preceded nor succeeded by a relative, and did not marry into established families. Of these, there were many, particularly among the merchant justices who operated in the Southwark part of the county. Yet with them too parallel patterns of co-operation and intermarriage appear. The brewing fraternity of Southwark, which was well represented by men such as William Hammond, Thomas Hucks, Edmund Halsey, Ralph and Henry Thrale and Joseph Mawbey, almost all of whom acted both on the bench and in parliament in our period, offers many examples of interconnection. Edmund Halsey married Anne Child, daughter of a brewer; his sister was Ralph Thrale's mother (99); Anne Thrale married John Lade, great nephew and heir of John Lade MP, JP and brewer in Southwark; William Hammond left rings to Henry Thrale and Joseph Mawbey in his will.

The brewers acted in concert in parliament, especially when their interests were affected. Thus Ralph Thrale petitioned against the 'Pott Act' in 1742/3 with the support of many brewers including Robert Hucks, son of William (100).

There are, of course, examples of 'loners' among the Surrey justices: Thomas Bevois, who may have been connected with the Southwark Dissenters (101); or Thomas Dawson, who from being a Dissenting minister in Hackney went on to train as a doctor at Glasgow University and began to practice in London, and who, rather unfashionably, married a patient of his (102); or again, the many JPs who cannot be traced in standard sources such as Venn, Foster or the DNB. Yet even they must have been sufficiently acceptable to the county establishment to be integrated into the Commission of the Peace.

B. Education and Interests

The education of the justices on the Surrey Bench varied enormously from people like Perry whose informal education included some time in North America to others like Gibbon, who after public school and university went on to European tours. In some cases, the process of education was a costly business: Henry Thrale's stay at university cost his father a thousand pounds per annum (103). Although it is interesting to note that one third of the very active Surrey

Justices in the period 1727-60 went to university, it is not so much with their common training as their common attitudes to education that we are concerned here. Even by the beginning of the reign, education, books, learning and the arts were reckoned to be a worthwhile pursuit. Few of the Surrey magistrates were proud to claim, as Sir William Joliffe (a Surrey JP) apparently did that though he was worth well over a hundred thousand pounds he never bought a book, a picture or a print. The fact that his boast was reported at all is indicative: given that he had the money, it was clearly felt by his contemporaries that he should have afforded these items. Even Gibbon had a library. Arthur Onslow's interest in the British Museum has been mentioned already. Sir Peter Thompson, a noted merchant in the Hamburg and Newfoundland trade and a Surrey Justice, a well known antiquary, collector, a fellow of the Royal Society and of the Society of Antiquaries, assembled a considerable library and museum at his house in Poole in Dorset. His books, sold at auction in 1815, included numerous travel books; many ancient classics, mostly of a scientific sort; legal texts including Burn's Justice of the Peace, acts of parliament and proclamations; the Gentleman's Magazine from the beginning; a few books on mathematics and algebra; books on coins; many manuscripts including a parish register; and several local histories. Although most of the texts were in English, some were in Latin and others in French; the collection included the Koran in Arabic (104). Nor was

Thompson an isolated instance. Bishop Thomas, as we have seen, also collected coins, prints and pictures; so did Philip Carteret Webb, active in the later part of the reign. Anthony Allen's antiquarian interests earned him a place in the DNB.

The Surrey justices of the reign of George II between them wrote and published a varied assortment of books, tracts and sermons. Tucker's work is probably the most ambitious, but it may be worth noting Joseph Mawbey's many contributions to the Gentleman's Magazine, Anthony Allen's list of Eton college members and dictionary of obsolete words; Thomas Dawson's medical tracts (Cases in the acute rheumatism and the gout ... and An account of a safe and efficient remedy for sore eyes (105)); Nicholas Harding's poetry (Poems, Latin, Greek and English. To which is added an historical enquiry and essay upon the administration of government in England during the king's minority (106); and John Fulham and Timothy Stileman's sermons (A sermon preached before the honourable House of Commons in St Margaret's, Westminster ... 1749 (107) and A short answer to the charge of schism laid upon the Church of England, shewing that our adversaries have not made good their charge) (108).

Clearly, it was not sufficient to own land to become a Justice. If all else failed, the country gentleman could

justify himself by taking a personal interest in the running of his estate or in embellishing his property. While the Onslows were the only ones to build a new family seat in Surrey in our period, others undertook extensive alteration and building schemes - if only to erect enclosures and wall in their parks. Sir James Colebrook had the old rectory in Gatton pulled down, destroyed many of the old monuments in the church and transformed the glebe into a lake (109). General John Folliot had his sixteenth century house at Leith Hill in Ockley altered (110). Thomas Orby Hunter built a house on the Waverly estate (111); and so on. This account of the damage caused to Thomas Scawen's property by a storm in 1735 gives a good idea of his lifestyle:

> From al places in the country we have surprising accounts of the great damage done by the storm on the 8th instant, particularly the fine grotto at the seat of Thomas Scawen, Esq., at Carshalton in Surrey was in great part ruined; several hundred trees were blown down in his park, and the old and the new wall inclosing it were broke down in many places; the whole damage being computed at upwards of 3,000 l. (112)

One could also speculate about the perceived virtues of foreign travel. For though few of the Surrey Justices active on the bench in our period reached Italy, the usual destination of a Grand Tour, a surprising number were connected, usually through trade, with various, often distant countries. Charles Boone was Governor of Bombay, 1715-22; Lord Baltimore Governor of Maryland, 1732-3; Samuel

Dicker went to Jamaica where he acquired a large estate; and James Oglethorpe set up the colony in Georgia. The establishment of new communities in North America should have afforded these Justices some insights into the need for morality and charity. And, in a sense, it did. Oglethorpe's concern for debtors and sailors is an aspect of that sense of duty. Many of the active JPs mentioned here were associated with the Foundling Hospital and St Thomas Hospital (113).

Of course, the experience of individual justices was much less rich than the aggregate presented here. Any attempt at generalisation from such personal experience is bound to be fraught with difficulties:

> Nous ne dissimulerons pas tout ce qu'il y a d'artificiel dans la première démarche que nous venons de tenter: saisir les mesures de l'homme comme individu isolé, c'est toujours le mutiler, l'abstraire de réalités humaines plus complexes [...] qui mettent en cause toute une hierarchie sociale, toute l'organisation des rapports humains. (114)

This is why we now need to look at the bench of magistrates as an institution, which may provide a useful framework within which to fit these individuals.

CHAPTER EIGHT: PUBLIC SERVICE AND PRIVATE INTEREST

I Legal safeguards attached to the appointment of Justices

The position of power of the justices was evident to contemporaries, even in the mediaeval period, and safeguards to prevent its abuse, in the form of oaths and property qualifications, were built into the procedure of appointment of magistrates.

The gist of the oath which justices had to take on their acceptance of office had been settled by the mid-fourteenth century (1): the Justice of the Peace was to swear that he would act on and execute all the statutes which came within the purview of his office impartially, that is to say, to do justice to rich and poor alike. By the eighteenth century, further conditions were added and Justices were expected to take a number of oaths which regulated their actions and restricted the type of person to whom the office was opened. Burn summarised thus the requirements of the office:

> This oath seems to be founded on the statute of the 13 R2 c7 which enacts that the justices shall be sworn duly and without favour, to keep and put in execution all the statutes and ordinances touching their offices. Besides this oath of office, he is likewise to take the oath mentioned in the last section concerning his qualification by estate; and he must, within six months after,

> take also the oaths of allegiance, supremacy, and abjuration and make and subscribe the declaration against transubstantiation, at the sessions, as other persons admitted to offices. (2)

The main qualification, however, remained connected to land ownership. At the beginning of the reign, justices had to own estates in the county in which they were appointed to act which provided them with an income of at least twenty pounds per annum clear of incumbrance, a sum which was increased to one hundred pounds by an act of 1732 (3). This legislation was further tightened up in 1745 (4), when the intending justices were required to swear that they did own enough land in the county to qualify. The preamble to this later act is instructive:

> Whereas by many Acts of Parliament of late years made, the power and authority of Justices of the Peace is greatly increased, whereby it is become of the utmost consequence to the commonweal to provide against persons of mean estate acting as such; and whereas the laws now in force are not sufficient for that purpose ...

- and misleading, as this qualification still excluded people whose wealth was not invested in land, a distinction which had, as we have seen, been condemned in Parliament by Micajah Perry. Clearly, the legislators had a much more specific type of person in mind when it came to appointing justices: the landed gentleman. The only exceptions to the act (that is to say those people who could become justices although they did not meet the qualifications stipulated by

statute) are few: borough justices and the eldest sons of peers or of Knights of the shire. Even after 1745, however, the system was still dependent on the Justices' own honesty in declaring their wealth and not much else.

These two acts should be seen in the context of the rest of the legislation dealing with the magistrature and the courts which was enacted in the reign of George II. Generally, there was a strong desire to regulate the various parts of the legal process - the juries (5), the solicitors and the attorneys (6), the language used in courts (7), the Judges of Assizes (8), the Clerk of the Peace's fees (9), - but at the same time there was a wish to strengthen the hand of the Justices in the proceedings. A number of acts were passed to make it more difficult for cases to abort on technicalities, of which the most important was probably the 5 Geo II c.19 - (An Act to oblige Justices of the Peace at their General or Quarter Sessions to determine appeals made to them according to the merits of the case notwithstanding defects of form in the original proceedings) - (10). More importantly, perhaps, the position of Justices was made by law less open to retaliatory court actions, notably by the passing of an act in 1751, 'for rendering Justices of the Peace more safe in the execution of their office' (11).

II The eighteenth century debate on justices' qualifications

This rather ineffectual legislation was the outcome of a long-standing debate about what was seen as a widespread problem, the appointment of corrupt justices to the Commissions of the Peace. The tone of the newspaper reports on the issue was condemnatory - the Gentleman's Magazine was forthright on this issue:

> There is one abuse in this town which contributes more than all others to the promotion of vice which is this; men are often put in the commission of the peace whose interest it is, that virtue should be utterly banished from us; who maintain, or at least enrich themselves, by encouraging the grossest immoralities, to whom all the bawds of the ward pay contribution for shelter and protection from the laws. Thus these worthy magistrates, instead of lessening enormities are the occasion of just twice as much debauchery as there would be without them. It is not to be questioned but the government might easily redress [sic] this abominable grievance, by enlarging the number of justices of the peace; by endeavouring to chuse men of virtuous principles; by admitting none, who have not considerable fortunes; perhaps by receiving into the number some of the most eminent clergy: then, by forcing all of them, upon severe penalties, to act when there is occasion. (12)

The Weekly Register could also piously comment:

> The most effectual way to reform the community and do honour to the magistracy together, would be to distinguish men of education, fortune and integrity, by Commissions. (13)

- but did not go much further. The whole process of nomination was perhaps too complicated to control. The nineteenth-century custom which required names to be channelled through the custos rotulorum of each county had not been fully established then. In the eighteenth century the names of prospective Justices could either be suggested by the Assize Judges, by friends in high places, by the person himself, or by the custos rotulorum (14). Worries about the type of person recruited into the commissions were common: at a meeting in 1734 between the magistrates and freeholders of Edinburgh and Robert Dundas, MP, for instance, the following recommendation was made:

> That you do concur in any proper law or laws that may be proposed for regulating the qualifications of Justices of the Peace; and particularly to prevent officers in the army and others having no interest in the counties from being named Justices of Peace in such counties. (15)

In any event it was felt that the Justices should have a vested interest in their county, and that that interest should take the form of land ownership. But to become Justice of the Peace implied a more specific form of acceptability which was not clearly enounced. It was easy to describe a bad justice but more difficult to spell out what made a good one. Even when benches did decide that one of their number should be removed (for reasons other than political affiliation or belief), the whole proceedings were singularly reticently recorded. When Justice Bayntum failed

to come up to the expectations of the gentlemen of Surrey in 1747, the court order book unhelpfully remarked:

> Whereas Thomas Bayntum of the parish of St George Southwark in the County of Surrey hath acted as one of his majesty's justices of the peace for this county of Surrey for a considerable time last past and now continues to act as a justice of the peace for the said county (altho' he the said Thomas Bayntum hath not qualified himself for the said office by taking the oaths appointed to be taken by Justice of the peace by the statute made in the eighteenth year of the reign of his present majesty) and whereas the said Thomas Bayntum hath committed several misdemeanours in the execution of the said office of Justice of the Peace for the county of Surrey, it is therefore ordered by this court that Thomas Miller Esq. Clerk of the peace for this county of Surrey do forthwith draw up a petition directed to the Right Honorable the Lord High Chancellor praying that the said Thomas Bayntum may be struck out of the Commission of the Peace for the county of Surrey for his acting not being qualified in defiance of this court and for divers other misdemeanours by him committed in the execution of his office as justice of the peace for the said county. (16)

And no more is heard of the case or indeed of Thomas Bayntum.

Two remedies were commonly suggested to improve the calibre of the personnel of the bench. One proposal recommended an increase in the number of clerical justices. While the number of clerical justices in the Surrey Commission did increase towards the end of the reign, there is only the slightest indication of the role that nineteenth century clergymen were going to play on the bench. Another recommendation involved reducing the number of justices in

the Commission for each county. It was felt that the larger county benches were, the more likely they were to include corrupt magistrates. The debate centred around the number of Justices included in the Commissions. Lambard lamented the fact in the sixteenth century, and later commentators reiterated his doubts. Nelson, for instance, noted in his manual:

> So this court of Justices of Peace, which was once, as my Lord Coke observes, such a form of subordinate government for the quiet of the realm, that if duly executed, no part of the Christian World had the like, hath been composed of such an unsuitable mixture of men, that it is become a subject in plays and a jest in comedies. Therefore this author would have the number reduced to the old standard, viz, that in each county there should be eight honorary justices constituted of men of the best quality therein, who should not be obliged constantly to attend the service any farther than their zeal for Justice and love for the county shall incline them; and eight acting Justices who should be fit for business, who should constantly apply themselves to this attendance, be entitled to a reward for their pains, and be subject to penalties upon any neglect without a reasonable excuse; and that without five, no sessions should be held. (17)

It is true that the number of Justices named in the Surrey Commissions grew quite dramatically in the eighteenth century. J. Beattie reported the following increase in numbers:

1680= 78
1702=118
1715=202
1742=346
1761=468 (18)

Not all these justices were active, of course; many preferred to enjoy the undoubted status of the office without burdening themselves with its work, another common complaint in informed circles. But the fact that the image of the Justice of the Peace was based on those who were active, whether good or bad, makes it essential to look at the active magistrate and the ways in which this activity was expressed.

III The active Justice

As we have already seen in the Introduction, only a small proportion of the Justices enumerated in the Commission of the Peace were active. It is difficult to calculate this proportion. The totals listed in the Surrey Commission in the reign of George II fluctuated between 347 and 455, but this number included, in most years over 90 people like the Prince of Wales and the Archbishop of Canterbury whose names were inserted in the list for honorific purposes. On the assumption, firstly, that over one quarter of the appointments were not intended to be taken seriously and, secondly, that the figure discussed below of 65 active JPs per year is accurate, one may guess that only about one fifth of commissioned magistrates were actually active. Even this very rough estimate may be misleading as the definition of active is open to discussion.

Two criteria were taken into account here: attendance at Quarter Sessions and signatures on Removal Orders for which appeals were entered at Quarter Sessions. Both present problems and neither is foolproof. Attendance at Quarter Sessions may leave out those justices who attended Petty Session regularly or justices who took depositions in the comfort of their own homes and proceeded to commit people to gaol or to the House of Correction without ever turning up at the Quarter Sessions. Correspondence with the Clerk of the Peace shows that committing Justices were anxious to attend the Sessions at which the case was likely to come up, but this did not always happen: of the 26 justices who committed prisoners in 1737, for instance, one never attended Quarter Sessions in the period 1727 to 1760. The second criterion is not as arbitrary as the first may appear. For although not all removal orders were appealed against, and although it might be argued that experienced and conscientious justices would not make the mistakes which would lead to a case being brought before Quarter Sessions, a comparison of the names of Justices whose orders were appealed against with a list of the names of Justices whose names appear on 278 removal Orders in eight parish deposits chosen for the relatively large number of surviving orders (which include orders which were not appealed against) shows a discrepancy of three (20). Thus it was unlikely for a Justice who signed these orders not to have some of his decisions appealed against at some time in the course of the

reign. Indeed, Justice Lade who was reputed for his experience as a magistrate, had a number of appeals upheld against his orders (21). Overall, the figure compiled using these two criteria can be summarised as follows:

ACTIVE JUSTICES IN SURREY, 1727-1760

QS ONLY	:	91
REMOVALS ONLY	:	21
BOTH	:	137
TOTAL	:	249

(22)

Given the opportunities for both social and business intercourse which Quarter Sessions meetings presented, it is interesting that just under ten per cent of the active magistrates did not turn up at a single Quarter Sessions in the course of the reign. Nor can this be put down to ageing Justices who did not wish to stir from home: George Tilden, active in the middle of the reign, continued to sign removal orders without feeling the need to attend the sessions. There existed, therefore, a small but significant number of magistrates whose conception of the office was restricted to activity within their own immediate neighbourhoods. The motives of those who attended sessions but did not bother with local administration are perhaps easier to understand: Arthur Onslow (himself one of this group) summarised them well when he explained his interest in attending sessions (23). This outlook can also be fairly safely ascribed to another group of public-spirited men: those who were prepared to stand as MPs and concern themselves with public

affairs but not with the trivia of county administration. William Aislabie of Ditton, Walter Carey of West Sheen, James Cocks of Reigate, Edward Digby of Wandsworth, Charles Dockminique of Chipstead, Daniel Lambert of Banstead, Bisse Richards and Thomas Walker, both of Wimbledon, all MPs at some time in the reign (24), failed to become active Justices in the county.

Huge variations in patterns of activity can be detected among these 149 magistrates. Some justices, such as Richard Bullock, John Denne, John Hartup, Richard Hoare or John Holman turned up at one meeting of the Quarter Sessions, never to return; others, such as Sir Charles Vernon (who put in an appearance in 1729, 1752 and 1757 only) attended in fits and starts; while others such as William Clark (37 Sessions in 18 years), Nicholas Harding (48 in 30 years) or Arthur Onslow (37 in 31 years) were regular attenders. A more accurate list of active Justices might therefore be determined if, in addition to the two preceding criteria, regularity of attendance at Quarter Sessions were taken into consideration. When only those Justices with five or more attendances at Quarter Sessions in the course of the reign are taken into account, a clearer profile of the active justice begins to emerge from this study. The group of Justices who then qualify for inclusion in our list is restricted to 113 members (25). The record of service of this more restricted group is impressive: for these

stalwarts, the average period of activity is fourteen years, with fifteen attendances and six removal orders recorded for each. Thus the government of the county was restricted to quite a small number of people. This is probably most clearly expressed in terms of the number of Justices active in any year:

ACTIVE JUSTICES IN SURREY, ANNUAL TOTALS 1727-1760

1727	20	1744	70
1728	51	1745	72
1729	64	1746	69
1730	65	1747	66
1731	64	1748	63
1732	62	1749	57
1733	66	1750	55
1734	62	1751	54
1735	71	1752	63
1736	76	1753	70
1737	80	1754	70
1738	79	1755	63
1739	74	1756	61
1740	68	1757	61
1741	67	1758	60
1742	65	1759	45
1743	78	1760	53

(26)

It would be a mistake to see this group as a close knit coterie: patterns of attendance clearly show that Justices, for the most part, tended to turn up at those meetings held nearest their homes. Throughout the reign, for instance, James Colebrook and Alexander Chalmers attended the sessions at Reigate exclusively, while John Amy and Peter Cock those at Southwark only. Thus it was perfectly possible for two justices active in the same county at the same time never to meet at formal occasions. Indeed it was the case with the

very active justices. Sir More Molyneux (who attended 30 sessions in 32 years) never met Elliott Bishop (26 sessions in 9 years) at the sessions and only sat once on the same bench as William Hammond (38 sessions in 18 years), although a substantial overlap exists in their period as magistrates. Overall, three quarters of the active justices attended one particular session in the year more often than all the other sessions put together (27). A comparison of the attendance lists at the four sessions of the same year, 1742, shows little regular duplication:

QUARTER SESSIONS ATTENDANCES, SURREY 1742

Epiphany 1741/2	Easter 1742
William Richardson	Edward Barker
Charles Ld Baltimore	Sir John Evelyn
John Gonson	Thomas Jordan
Maltis Ryall	George Ballard
Thomas Hucks	John Seyliard
Robert Lacy	Abraham Tucker
John Copeland	Joseph Willoughby
Vigerus Edwards	Timothy Stileman
Isaak Pacatus Shard	
Abraham Shard	
Richard Shepard	
Midsummer 1742	**Michaelmas 1742**
More Molyneux	Nicholas Harding
Robert Austin	Arthur Onslow
Abraham Shard	John Evelyn
Thomas Woodford	William Richardson
John Fulham	Robert Austen
	Robert Lacy
	Charles Selwyn
	Daniel Boone
	Timothy Stileman

Nor does it appear that the Midsummer session was the best

attended meeting, nor even the 'county meeting'. For though the autumn and spring sessions were by far less well attended, the Southwark sessions in winter was as much of a focal point as Guildford in the summer (28). Lord Baltimore, Knight of the Shire from 1741 to 1751, and an active justice, never attended the Guildford Sessions. In that sense, the geographical county did not have the significance that certain historians have assumed. The fact that Arthur Onslow, Sir William and Kendrick Clayton and John Essington were committed to acting in Surrey did not prevent their name appearing in the Buckinghamshire Commission of 1735 (29). There are also examples of Justices who were active in more than one county: Gibbon was active in Hampshire, for instance (30). It might be suggested that to many Justices, the 'county' was a vaguer entity, more akin to an association than to an administrative area. Quarter Sessions attendances and the distribution of Removal Orders signatures show that the geographical districts within which most justices chose to act were smaller (the parish, the manor, the village ...), and this was doubly convenient. On the one hand, it was obvious that people should not want to have to travel a long distance to a justice and tended to refer cases to their nearest magistrate (although there is evidence that in Southwark where people had some degree of choice, they tended to go to specific justices rather than the closest one). On the other hand, it was particularly important for justices to be seen applying the law in the

area where they held their estate.

IV The ubiquitous Justice

The wealthy (male and landowning) individual who wished to devote some of his time to public service could do so in a surprisingly large number of capacities and functions. As a member of the grand Jury at the Assize meetings, he formally represented the county. As a member of turnpike trusts, bridge commissions, and, later in the reign, in the militia, he wielded significant power. Just over one quarter of the active Surrey Justices (30 out of 113) were also Members of Parliament (31). Locally, a number of Justices owned the advowson of their parish. Thus Kenrick Clayton owned the advowson at Tandrige (32), Thomas Orby Hunter at Chertsey (33), William Browning at Bermondsey (34) and William Joliffe at Purbright (35). Nicholas Harding senior was involved in a dispute over it in Kingston upon Thames (36). As we have already seen, there are also notable examples of Justices taking action in their vestries. Zachary Chambers's name is mentioned in the Wimbledon minutes for instance (37). At Richmond, Justice Selwyn contributed much to the organisation of vestry business (38) and at Leatherhead meetings were attended by Justices Ballard and Gore (39). But it is undoubtedly as Justice of the Peace that the power of the public spirited gentleman was at its most pervasive. No detail seemed too small.

Witness the following letters addressed to the Clerk of the Peace: - from Lord Palmerston in 1729:

> Sir - I hear the bill I preferred against Margarett Losson the wife of John Losson of the parish of Mortlake labourer for a trespass is found. I desire you would gett a warrant to take her up drawn today and signed by the chairman and others of the Justices of the peace on the bench before they adjourn and send it mee; and you will much oblige ... (40)

- from Justice Clarke in 1750:

> Sir - I am informed our parish officers intend to make some application at the Quarter Sessions for indentures to putt out some poor children apprentices, to Henry Rye and others, people in low circumstances. You may please to remember these things were mov'd at the bench in Dorking, Sir John Evelyn, Mr Budgen and my self present and is approv'd by all of us. If the parish officers should attempt such a thing at Ryegate, I hope you'd disapoint the design taking effect. Mr Stockwood too has declar'd himself of the opinion of Sir John Evelyn &c in the case ... (41)

- or from Justice Hammond in 1745:

> Sir - The bearer is a poor unhappy woman whose husband was committed by me for wounding her in a violent manner, she has been very much abused & I fear cannot bear the expence of prosecuting him. Therefore beg the favour of you to assist her in this affair ... (42)

In any of these three cases, it seems unlikely that the Justices would benefit personally from the transaction. Indeed certain Justices made great play of their

impartiality. As we have seen, Arthur Onslow was proud of his reputation as an impartial magistrate, and Charles Selwyn could write to the Clerk of the Peace:

> Sir - The bearer is the brother bound in £20 for his brother George Oldens appearance at the next Quarter Sessions. The family being of pretty good credit are very unwilling a slurr of that sort should come upon it as I mention'd to you when I saw you last, he says will contrive to send his brother to sea; but not till this affair is over; if you think I can avoid delivering in the recognisance at the sessions & can doe it without breach of my oath which I am very tender I mean the oath taken on swearing in to the office of Justice, if you think I can safely do this by which meanes his Majesty should get a sailor &c I should be glad you send me word how which would much oblige ... (43)

This impartiality justified to the Justices themselves their crucial role in the administrative and criminal processes. By claiming to be unbiased, they were establishing their right to be the judges over these issues and justifying their position to themselves. They could thus become convinced that the system was right, proper and fair. This belief in the system, which was so apparent in the Loseley charges, is commonly met elsewhere. In our period it is rare to read of misgivings about the basic structure of the administrative and criminal processes, although criticism was quite frequently levelled against certain types of persons who should not have been allowed to become magistrates. The Justices' position in the system was given further credibility by apparently disinterested or philanthropic acts. Nicholas Harding, Edward Cooper and

Bishop Thomas endowed educational charities, for instance (44). William Clayton donated a flagon to Bletchingly Church (45), Samuel Dicker built bridges (46) and Jeremiah Brown bequeathed £136 for the provision of a small income for ten widows in his parish (47). More spectacularly, in the harsh winter of 1740-1, Denzill Onslow provided for an ox to be killed and roasted for the poor of Mitcham (48) and Ralph Thrale (then one of the candidates as MP for Southwark) gave £125 to be distributed among the poor (49). This is not so much old-fashioned paternalism as a form of self-advertisement. Like the film star of today, the public spirited gentleman was claiming the interest of his contemporaries and getting it: newspaper reports carried much personal information and accounts of minor incidents. Their authority, their right to personal self-importance, was increasingly justified. Justices were becoming more self-confident, and, as Malcolmson showed in his book on popular recreations, more willing to direct the behaviour of others.

Thus, the public-spirited gentleman, - the Justice - was cutting an increasingly authoritative figure in the community. His image was redefined in the course of the century. By 1760, not only had his position become unassailable, but his persona had acquired an aura of ´rightness´ which could not be gainsaid, a situation which did not prevail at the beginning of the reign.

In a deservedly famous essay Douglas Hay pointed out the need magistrates had for the belief in the 'justice of their own rule' (50). He goes on to show how this belief was sustained and follows the development of that particular ideology. It was part and parcel of the belief, strongly upheld by the Whig establishment of the period, in the necessity for a general acceptance of a rule of law weighted in such a way as to maintain the political status quo (51). Locally, Justices hardly needed to understand the significance of their role. Indeed, it was probably most convenient that they should accept the myth of their impartiality without reservation, as they could then justify their part in the process in all honesty. How consistently the ideology was internalised is another matter. In 1731, the Gentleman's Magazine printed the letter of an indignant correspondent, who, complaining of the zeal of reforming constables, did not understand 'that our constitution allows a set of ruffians to break into private companies and hurry gentlemen before a magistrate, on a bare suspicion of being criminal' (52). Even if public morality advocated the same law for ruffians and gentlemen, and even if, as Hay showed, the trial and conviction of titled defendants appeared to prove that the ideal was lived up to, different attitudes surfaced often enough to suggest wide disparities in opinion.

This belief in the fairness of the system (however

irrationally applied) came about precisely as the process of institutionalisation mentioned in Chapter Six above was developing. As Quarter Sessions acquired an enhanced significance, the Justices no longer were a group of magistrates acting together, but 'the bench' - corporate, united and, in a sense, less individually responsible. In the late eighteenth and early nineteenth centuries, local government was increasingly affected by this development. The regulation of common fields passed from the juries of manorial courts to a meeting of proprietors in which three quarters majority in number and value would have the final say (53); Boards of Guardians replaced the Vestry and the Overseers of the poor; Sanitary Commissions replaced ad hoc public committees. These bodies, more than ever before, were open to public scrutiny: the examination of their accounts and the regulation of their elections was often provided for in legislation. Yet, at the same time, control over who was allowed to vote in elections to these boards and over who was formally entitled to sit on them became much tighter: people who did not have a certain status or property were automatically excluded. This is not to say that there had existed a golden age of English democracy at some time in the sixteenth or seventeenth centuries. Of course not: power had always been vested in the hands of a small number of people. But the spurious impartiality and questionable accountability which were gradually written into institutions of local government stemmed criticism of the

system precisely because they made it appear rational and responsible.

CONCLUSION

The political and social stability of the period covered by this thesis masks important developments in the theory and practice of local administration. A number of themes and debates mentioned in the course of the preceding chapters are still current: the concept of autonomous and accountable local government; the breadth of governmental intervention; the neutrality of administrative processes.

In Surrey, from the end of the seventeenth century, but more particularly in the first half of the eighteenth century, local ratepayers, especially in large populous parishes began to assert a right to influence developments in their parishes. With this assertion, there arose a number of administrative procedures, such as the convening of more formally caonstituted meetings, the proper recording of minutes and the rotation of posts and offices to avoid the creation of de facto closed vestries. The answerability of originally independent officials to the parish meeting was at last broadly established by the end of the period, a development which would have been difficult to predict sixty years earlier. The important administrative reforms of the nineteenth century - the introduction of Boards of Guardians, School Boards or County and District councils, for instance, - accepted this principle, although imperfectly. (It is not fully implemented today in relation

to Health Authorities or the decreasingly publicly accountable Water Authorities (1).) Broadly speaking, therefore, parish government evolved away from the Tudor ideas of statute labour, compulsory alms for the poor and strict national supervision towards a more autonomous structure of local government which increasingly frequently employed experts supervised by the vestries or subcommittees of the vestries.

It was not proposed in our period that the next tier of government - county administration - should be accountable in the same way although there too the system was gradually altered to accommodate doubts about what was seen by contemporaries as the sometimes arbitrary powers of Justices of the Peace.

The growing importance of the Justice of the Peace and of Quarter Sessions arose out of conscious government policy. This policy, however, was based on the assumption that central government would retain some supervisory powers over local administration, a situation which no longer obtained in as direct a way after 1660. Yet at county level too, efficiency, professionalism and a concern for the procedure became more important and were though if as methods of curbing abuses of power by justices and senior county officials. Although there is much evidence to show that the procedure at Quarter Sessions was being tightened

up and streamlined, that the personnel of the bench was increasingly professional in its approach, county government was still erratic. Nevertheless, the pervasiveness of local administration, in spite of its randomness, is clear. This is particularly true when the Poor Law is investigated but it is also the case in connexion with recreational and work activities supervised by the court. The Justice of the Peace's administrative control of the poor was as important as his more obvious judicial powers over the accused and the convicted. Indeed, it may be considered to be more significant, as the criminal procedure affected fewer individuals. Thus if the criminal process was symbolic of the weight of the power of the Justice, the county business showed up the extent of that power over people's lives. Acknowledging publicly the power of the court was more important than following all its rules. Petitions to the bench, the most usual approach to the court in non-criminal procedure, were normally very favourably received, even in the cases where petitioners had transgressed the code enforced by the court. As we have seen, the penal code provided for more lenient treatment of perjury than of a refusal to plead.

Much of the effort of the court was directed towards getting the individual to recognise the power of the court. When responses to administrative prescription are investigated, it becomes clear that people were aware of the

expectations of the system: indeed, the greater number of them were prepared to 'play' the system.

As paternalist structures and the related deferential behaviour changed in the course of the century away from personal to institutional relationships so there arose the need for depersonalising a system in which justices of the peace were seen to have too much personal power. It was one thing to want the landowning elite to provide the magistracy but another to see as desirable the arbitrary power which the system afforded unscrupulous magistrates. To counter such abuses, administrators and justices of the peace in particular were made to feel accountable not to a concrete body of ratepayers but to more abstract notions of probity, honesty, fairness and justice. (The tension, however, between the 'democratic' parish organisation and the 'autocratic' county structure was more theoretical than real.)

Partly because it is easy to show how public spirited and uncorrupted most of the justices were, at any rate in rural counties, there has been a tendency for historians to see local government as a neutral system. In that context, S. and B. Webb's interpretation of the development of local government has been ambiguous: because they emphasised the importance of bad, venal justices, it has become common to equate uncorrupted administrators with a good system (and

vice versa) and the ways in whch the machine of local government itself was weighted in favour of certain groups of citizens have not been taken into account. A number of recent publications have rehabilitated the active justice as hard-working public-spirited and sincere individual. In a recent assessment of the work of the Justice of the Peace in the eighteenth century, Bob Bushaway has noted:

> Far from conforming to the stereotype of the harsh magistrate depicted in some eighteenth century literature, William Hunt emerges as a man concerned to arbitrate fairly and to settle disputes in the community in an even-handed way. Elizabeth Crittall's edition of his notebook is an important contribution to the historian's understanding of the role of the eighteenth century magistrate. (2).

Hunt was the Wiltshire equivalent of a number of active Surrey Justices, such as Lade, Ballard, Richardson and Harding, whose commitment to public service is undoubted. The despatch of county business was completely dependent on groups of such people who were prepared to spend very considerable amounts of time acting in various capacities, as magistrates, as trustees of charities and turnpike trusts, as Grand Jurors at Assizes, as stewards in manors and as Members of Parliament. Their lifestyle and interests is well illustrated in the memorial dated 1754 of Thomas Lediard, a Surrey magistrate to the Duke of Newcastle:

> ... humbly sheweth that your memorialist after having for several years served the Westminster

> Bridge Commissioners, as their agent and surveyor was discharged from that office (the Bridge being finished) and then promised to be recommended by them to the government for an employ
> That your memorialist being then in the Commission of the Peace for Middlesex and Westminster, and since for the county of Surry, was prevailed upon by many of his friends to act in the same which he has continued to do, employing his whole time therein; and often at the risque of his life, and a considerable expence in the detection of many notorious offenders
> That you memorialist for near four years last past has been the chairman of the sessions at Westminster, chosen by the unanimous vote of the Justices; and how he has executed that troublesome office as well as the duty of a magistrate in general, he submits to the candour of his freinds and the publick
> (...)
> Your memorialist therefore humbly begs your Grace will consider the facts herein mentioned and appoint him to succeed the late Mr Fielding in transacting the government business as a magistrate ... (3)

Yet the hard work of Lediard, Lade or Richardson does not lessen the fact that they benefited most from the system as stood. The fact that local government in the eighteenth century promoted the interest of the propertied classes was obscured by their apparently impartial arbitration of administrative and judicial issues.

The tradition which sees English local government as an impartial provision of necessary services survives to this day. In county council corridors older councillors lament the recent introduction of 'politics' in the running of their county. This attitude, however, reflects nineteenth-century developments. Although the functions of the local

administrative machine have not changed so dramatically as to be unrecognisable over the last three hundred years (after all, local councils are still responsible for repairing roads or helping the poor) its purpose has. In the eighteenth century, county government in particular was the cornerstone of the web of local institutions through which social relations were formally mediated; by the end of the nineteenth, it was more usually conceived of as the organisation through which public health (in the broadest sense) was ensured. This change occurred as different institutions took over this function of social control - the school, the asylum, the workhouse, the convict prison, the police - and as a different work ethos, determined by industrialised work patterns, developed. It has become a commonplace of British social history to stress the significance of the rule of law in the eighteenth century. That the law occupied a place of paramount importance in eighteenth century ideology is no accident. At a time when the props of earlier paternalist expectations were disappearing, the establishment had fewer defences: indeed, in the eighteenth century, its main bulwark was an acceptance of the rule of law, or more specifically, an acceptance of the Justice of the Peace as the arbiter of personal behaviour. The institutions of local government - through which this process took place publicly - were thus an important agency of social control.

REFERENCES

The following abbreviations have been used throughout the references:

CJ	: House of Commons Journal
DNB	: Dictionary of National Biography
VCH	: Victoria County History

Abbreviations have also been used to denote the locations of manuscript sources and more unusual printed texts, as follows:

BL	: British Library
BL(M)	: British Library (manuscripts room)
BCRO	: Buckingham County Record Office
CLRO	: Corporation of London Record Office
GLRO	: Greater London Record Office
GMR	: Guildford Muniment Room
KB	: Kingston Borough Archive
PRO(C)	: Public Record Office, Chancery Lane
PRO(K)	: Public Record Office, Kew
SCRO	: Surrey County Record Office

Contracted forms of titles have occasionally been used to avoid confusion.

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(1). See for instance A.P. Donajgrodzki (ed.): Social control in nineteenth century Britain. London: Croom Helm, 1977.

(2). G. Stedman Jones: 'Class expressions versus social control?'. History Workshop 4 (Autumn 1978), p. 168.

(3). The local government acts of 1888 (51 & 52 Vic c. 41) and of 1894 (56 & 57 Vic, c. 73) are important landmarks in the development of local administration. Together, these acts transferred much administrative business from Quarter Sessions to the newly founded county councils. More recently, the 1972 Local Government Act (c.70) is more important to Surrey government than the 1933 Order (1 April) or the London Government Act, 1963 (c.33). In 1888 and again in 1963-5, the territorial area of the county was quite considerably reduced. In our period, the county extended as far as Rotherhithe.

(4). BL(M): Add Mss 11,571.f.69.

(5). A.J. Stevens: 'Geology and soils' in J.E. Lousley (ed.): Flora of Surrey. Newton Abbot: David and Charles, 1976, p. 21.

(6). VCH, vol 2, p. 397.

(7). A. Crocker & G. Crocker: Catteshall Mill: a survey of the history and archaeology of an industrial site at Godalming, Surrey. (Surrey Archeological Society. Research volume 8). Guildford: Surrey Archeological Society, 1981, p. 5.

(8). BL(M): Add Mss 36,148.f. 237.

(9). BL(M): Add Mss 36,156.f.159.

(10). BL(M): Add Mss 36,169.f.263; 36,184.f.154; 36,189.f.272

(11). BL(M): Add Mss 36,150.f.174.

(12). Daniel Defoe: The compleat English gentleman; edited ... by Karl Bulbring. London: D. Nutt, 1890, pp. 262-263.

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(1). H.M. Jewell: English local administration in the middle ages. Newton Abbot: David & Charles, 1972, p. 38.

(2). J.R. Tanner (ed.): Tudor constitutional documents. Cambridge: Cambridge University Press, 1922, p. 452.

(3). L. Stone and J.C.F. Stone: An open elite?: England 1540-1880. Oxford: Clarendon Press, 1984, p. 33.

(4). W. Holdsworth: A history of English law. 7th ed. Vol 4. London: Methuen, 1956, p. 137.

(5). L.K. Glassey: Politics and the appointment of Justices of the Peace, 1675-1720. Oxford: Oxford University Press, 1979, p. 267. Dismissals did not always have much long term significance, as it was often the case that the dismissed justices were reappointed in later commissions. Glassey mentions the case of the removal of the Surrey Justice John Lade in 1708 (p.266), who not only was later re-appointed, but was to become one of the leading JPs for that county in the first half of the reign of George II. S. and B. Webb in The parish and the county (London: Cass, 1963, p. 380) suggest that there were only about twenty deprivations of office (as distinct from commission reshuffles) between 1730 and 1835 and most of them were not for political reasons.

(6). E. Viney: The sheriffs of Buckinghamshire. Aylesbury: [E. Viney], 1965, p. 13.

(7). H.M. Jewell: op. cit., pp. 42-46.

(8). The high sheriff; [compiled by Godfrey Agnew et al.]. London: Times Publishing Co., 1961, p. 9.

(9). The details of the auditory system to which sheriffs' accounts were submitted are described in the Guide to the contents of the Public Record Office. Vol 1. London: HMSO, 1963, pp. 76-77.

(10). H.M. Jewell: op.cit., p. 184.

(11). J. Impey: The offic of sheriff. London: T. Whieldon, 1786, p. 223.

(12). E.M. Dance: The borough of Guildford, 1257-1957: catalogue of an exhibition of the borough plate and the borough records. Guildford: Guildford Corporation, [1957], p. 6.

(13). It has been suggested that initially the sheriffs of the Home Counties may have used the London prisons. In 1172-3 Surrey contributed some money towards the building of the Fleet prison. By 1207, however, the county used Guildford Castle. See R.B. Pugh: Imprisonment in mediaeval England. Cambridge: Cambridge University Press, 1968, pp. 75-76.

(14). M.H. Mills: 'The mediaeval shire house' in J. Conway-Davies (ed.): Studies presented to Sir Hilary Jenkinson. London: Oxford University Press, 1957, p. 254.

(15). A.R. Myers: England in the late Middle Ages. 8th ed. Harmondsworth: Penguin, 1971, p. 51.

(16). 11 Henry VII c.15. J.R, Tanner: op. cit., p. 464.

(17). J. Impey: op. cit., preface.

(18). BCRO : S/1/1.

(19). BL(M): Add Mss 32 918.f.6.

(20). See for instance The London Evening Post, 1989 and 1993, for advertisements for the 1740 county election meeting.

(21). See R. Sedgwick: The House of Commons, 1715-1754. 2 vols. London: HMSO, 1970, p. 327 and L. Namier & J. Brooke: The House of Commons, 1754-1790. 3 vols: London: HMSO, 1964, p. 383.

(22). BCRO: Baker papers (D/X uncat.).

(23). BCRO: D/X/8. The text of the agreement is published in full in E. Viney: op. cit., p. 127, and in J.S. Cockburn: A history of English Assizes, 1558-1714. Cambridge: Cambridge University Press, 1972, p. 303.

(24). PRO(K): T60/14 p.489 (cited as p. 490 in W.A. Shaw (comp.): Calendar of Treasury books and papers 1742-1745 preserved in the Public Record Office. London:HMSO, 1903, p. 164.

(25). Guide to the contents of the Public Record Office... p. 77.

(26). C.A.F. Meekings (ed.): Surrey hearth tax, 1664. (Surrey Record Society 17). London: Surrey Record Society, 1940, p. xvi.

(27). Ibid.: p. xxxii.

(28). PRO(K): T11/21 p. 15.

(29). The lists were published regularly in the Februry issue of the Gentleman's Magazine, and more erratically in newspapers such as the London Evening Post (1262, 18-20 December 1735 for instance).

(30). E.N. Williams (comp.): The eighteenth-century constitution, 1688-1815. Cambridge: Cambridge University Press, 1965, p. 279.

(31). PRO(K): T60/15 p. 393.

(32). E.Viney: op. cit., p. 16.

(33). PRO(C): ASSI 35/175/8.

(34). H.M. Jewell: op. cit., p. 138.

(35). J.S. Cockburn: op. cit., p. 16.

(36). H.M. Jewell: op. cit., p. 138.

(37). J.S. Cockburn: op. cit., p. 16.

(38). H.M. Jewell: op. cit., p. 140.

(39). Ibid.: p. 142.

(40). J.S. Cockburn: op. cit., p. 19.

(41). Ibid.: p. 22.

(42). Guildford was also an assize town.

(43). J.S. Cockburn: op. cit., p. 186.

(44). Ibid.: p. 187.

(45). London Evening Post, 1144, 22-25 March 1735.

(46). F.D. MacKinnon: On circuit, 1924-1937. Cambridge: Cambridge University Press, 1940, p. 286.

(47). London Evening Post, 1149, 29 March-1 April 1735. For a similar case this time tried at Quarter Sessions, between Worth (Sussex) and Horne parishes, see SCRO: QS 2/1/13, Midsummer sessions, 11 July 1727.

(48). PRO(C): ASSI 35/180/14.

(49). The Daily Journal, 4408, 3 March 1735.

(50). PRO(C): ASSI 35/175/5.

(51). J.S. Cockburn (ed.): Calendar of assize records: Surrey indictments, Elizabeth I. London: HMSO, 1980, p. 464, for instance.

(52). J.S. Cockburn (ed.): Calendar of assize records: Surrey indictments, James I. London: HMSO, 1982, p. 11.

(53). The criteria which determine what an active justice is in the context of this thesis are described in chapter nine below.

(54). PRO(C): ASSI 31/2 p. 71. See also Appendix three for his attendance at Quarter Sessions.

(55). BL(M): Add Mss 35601.f.313.

(56). BL(M): Add Mss 35604.f.293.

(57). BL(M): Add Mss 35602.f.127.

(58). BL(M): Add Mss 35604.f.4.

(59). This section draws on the work of H. Jenkinson and D. Powell (eds): Quarter Sessions records with other records of the Justices of the Peace for the county of Surrey. Kingston upon Thames: Surrey County Council, 1931. (See vol 5, pp. 2-3 for a bibliography.)

(60). J.R. Tanner: op. cit., p. 454.

(61). W. Nelson: The office and authority of a Justice of the Peace. 10th ed. London: 1729, p. 440.

(62). T. Barnes & A.H. Smith: 'Justices of the Peace from 1558 to 1688: a revised list of sources'. Bulletin of the Insitute of Historical Research 32 (1959), p. 223.

(63). J.H. Baker: 'Criminal courts and procedure at common law, 1550-1800.' In J.S. Cockburn (ed.) Crime in England, 1550-1800, London: Methuen, 1977, p. 29.

(64). L.K. Glassey: op. cit., p. 20.

(65). See for instance J.S. Cockburn: A history of English assizes ... p. 155: 'A century of Tudor rule had transformed them irrevocably from essentially judicial officers to the harassed administrators of Lambard's day'.

(66). W. Holdsworth: op. cit., p. 137.

(67). SCRO: 446/1. E. Silverthorne (ed): Deposition book of Richard Wyatt, JP, 1767-1776. (Surrey Record Society 30). Guildford : Surrey Record Society, 1978. It is true, of course, that a deposition book might leave out references to

other work. Comparison with other justices' diaries, however, confirms our impression. See for instance: G. Versey: 'A justice's diary'. Records of Buckinghamshire 17 (1961-1965), p. 182 et seq.; A.F. Circket (ed.): Samuel Whitbread's notebooks, 1810-11, 1813-14. (Bedfordshire Record Society 50). Bedford: Bedfordshire Record Society, 1971; E. Crittall (ed.): The justicing notebook of William Hunt. (Wiltshire Record Society 37). Devizes: Wiltshire Record Society, 1982; Edmund Waller's notebook BCRO: DC 18/39/4.

(68). 3 Will & Mary c. 12.

(69). SCRO: PS 3/1/1; KB: KS 2/1/1.

(70). KB: KS 2/1/1 fo 149v.

(71). SCRO: QS 3/1/1.

(72). SCRO: PS 3/1/1; KB: KS 2/1/1.

(73). In certain counties, Petty Sessions meetings coincided with market days to enable masters and servants to sign contracts of work on the spot. Cf. J.J. Hecht: The domestic servant class in eighteenth century England. London: Routledge & Kegan Paul, 1956, p. 28.

(74). KB:KE 2/5/1-5.

(75). J. Aubrey: The natural history of the county of Surrey begun in the year 1673 and continued to the present time. 5 vols. London: E. Curll, 1719, p. xxv.

(76). G.S. Thomson: Lords lieutenants in the sixteenth century: a study in Tudor local administration. London: Longmans, Green, 1923, p. 23. Henry VIII's appointments followed the pattern set by the Crown from the thirteenth century onwards in the issuing of Commissions of Array. See C. N. Packett: A history and A to Z of Her Majesty's lieutenancy of counties (1547-1972). [Bradford: C.N. Packett, 1973], p. 14.

(77). G.S. Thomson: op. cit., p. 13.

(78). J.C. Sainty: Lieutenants of counties, 1585-1642. (Bulletin of the Institute of Historical Research, Special supplement 8). London: Athlone Press, 1970, p. 3.

(79). Ibid.: p. 33.

(80). BL(M): Add Ch. 5641.

(81). BL(M): Add Mss 34237.f.19.

(82). G.S. Thomson: op. cit., p. 8.

(83). Ibid.: p. 117

(84). See for instance A.J. Kempe: The Loseley manuscripts: manuscripts and other rare documents illustrative of some of the more minute particulars of English history.... London: J. Murray, 1836. Correspondence between the Privy Council and the Deputy Lieutenants of Surrey and Sussex, 1580-1590, survives at Canterbury cathedral, Mss 99.

(85). BL(M): Add Ch. 5642 and 5643.

(86). G.S. Thomson: op. cit., p. 143.

(87). J.C. Sainty (comp): List of lieutenants of counties of England and Wales, 1660-1974. (List and Index Society, Special series 12). London: Swift Printers, 1979.

(88). G. Duckett (ed.): Penal laws and the Test Act, 1687-88. London: printed for subscribers, 1883, p. ix.

(89). In 1763, the Duke of Newcastle was stripped of his three lieutenancies, see C.N. Packett: op. cit., p. 36.

(90). BL(M): Add Mss 35600.f.83.

(91). BL(M): Add Mss 35600.f.258.

(92). GMR: 173/1/1 (1) p. 271.

(93). Ibid.: p. 282.

(94). Historical Manuscripts Commission: Fourteenth Report. Appendix: part 9. London: HMSO, 1895, p. 491.

(95). Ibid.: p. 495.

(96). C.E. Vulliamy: The Onslow family, 1528-1874, with some account of their times. London: Chapman and Hall, 1953, p. 71.

(97). E. Viney: op. cit., p. 23.

(98). GMR: 173/1/1 (1) p. 343.

(99). C.E. Vulliamy: op. cit., p. 86.

(100). J.R. Western: The English militia in the eighteenth century. London: Routledge and Kegan Paul, 1965, p. 17.

(101). Ibid.: p. 42-44.

(102). Historical Manuscript Commission: Seventh Report. Appendix p. 680.

(103). J.R. Western: op. cit., p. 63. Gentleman's Magazine. June 1741, p. 304.

(104). GMR: 173/1/1 (1)p. 340.

(105). C.E. Vulliamy: op. cit., p. 79, citing Horace Walpole.

(106). GMR: 173/1/1 (1) p. 340.

(107). GMR: LM 1330/87.

(108). See for instance V.A. Hatley (ed): Northamtonshire militia list, 1777. (Northamptonshire Record Society 125) Kettering: Dalkeith Press for the Northamptonshire Record Society, 1973.

(109). GMR: LM 1330/88/1.

(110). BL(M): Add Mss 32882.f.382.

(111). Thomas Orby Hunter, MP for Winchelsea, Lord of the Admiralty and commissary-general with the English army in Germany, had a military background. His correspondence about the German campaigns 1758-1760, survives in the Newcastle papers in the British Library.

(112). GMR: 173/1/1 (1).

(113). BL(M): Add Mss 29599.f.386.

(114). PRO(K): T1/433/15.

(115). J.R. Western: op. cit., p. 282.

(116). 39 Geo III c.90.

(117). BL(M): Add Mss 33061.f.194.

(118). PRO(K): HO 51/1 p. 31.

(119). Ibid.: p. 43.

(120). C.N. Packett: op. cit., p. 85.

(121). BL(M): Add Mss 34727.f.264. Similar orders were given to the Custodes in the emergency years of the reign of George II. See for instance PRO (C): PC 4/1 p. 973 for 1755 and p. 1012 for 1756.

(122). See chapter 7 below.

(123). SCRO: QS 2/1/18 p. 196.

(124). Ibid.: p. 431.

(125). William Belchier, an active Surrey Justice of the Peace towards the end of his life, was MP for Southwark from 1747 to 1761 and made his fortune as a banker. He was often consulted by government on financial and intelligence matters (see BL(M) Add Mss 32902.f.167 and 32713.f.294-5). It is ironic that he should have died a bankrupt in 1772.

(126). Philip Carteret Webb, F.R.S., an active Surrey Justice of the Peace, was solicitor to the Treasury from 1756 to 1765 and MP for Haslemere for 1757 to 1767. He was a distinguished lawyer, antiquary and collector. See VCH, vol. 3, p. 27.

(127). SCRO: QS 2/1/18 p. 457.

(128). PRO(C): SP 46/150/67, (13 August 1761).

(129). SCRO: QS 2/1/18 p. 483.

(130). BL(M): Add Mss 32731.f.355.

(131). BL(M): Add Mss 32731.f.363.

(132). D. Hay: 'Property, authority and the criminal law', in D. Hay et al.: Albion's fatal tree: crime and society in eighteenth century England. London: Allen Lane, 1975, p. 46.

(133). The Judges of Assize themselves often interceded on behalf of convicted felons. See for instance PRO(C): SP 36/45/316, in which Sir William Thomson recommended that George Green, convicted for burglary at a Surrey Assize, be transported.

(134). PRO(C): SP 36/31/96, 102, 119.

(135). E.N. Williams (comp.): op. cit., p. 179.

(136). Historical Manuscripts Commission: Eleventh Report. Appendix: part 7, London: HMSO, 1888. pp. 105-6.

(137). Historical Manuscripts Commission: Fourteenth Report... p. 518.

(138). R. Sedgwick: op. cit., p. 328.

(139). J. Broad: 'Cattle plague in eighteenth-century England'. Agricultural History Review, 31 (1983), p. 108.

(140). C.N. Packett: op. cit., p. 50.

(141). Ex inf. Robert Wood, Senior County Inspector for History, Essex County Council.

(142). The duties of the office in this century are well described in Lord Macmillan: Local government law and administration. Vol 8. London: Butterworth, 1936, p. 303 et seq.. Significantly, the emphasis of the role of the Lord Lieutenant in times of crisis is still stressed.

(143). R. Sedgwick: op. cit., p. 328.

(144). This is not to say that jokes were not made about him and his formal manners. Justice Harvest was credited with the following ditty about Arthur Onslow:

His rules & orders, with his latest breath
Onslow lamenting, saw the approach of death.
To order! Sir! To order! Death replyed,
Death knows not rules, or orders. - Onslow dyed!

(BL(M): Add Mss 5871.f.186 (b).)

(145). BL(M): Add Mss 35633.f.394.

(146). A. Browning: 'Parties and party organisation in the reign of Charles II'. Transactions of the Royal Historical Society (4th series) 30 (1948), p. 32.

(147). PRO(C): PC 4/1 p. 817.

(148). Ibid.: p. 973 and p. 995.

(149). PRO(C): SP 36/38/313.

(150). PRO(K): T1/383/12, 13, 14.

(151). BL(M): Add Mss 35591.f.102.

(152). BL(M): Add Mss 35586.f.102.

(153). BL(M): Add Mss 32932.f.58.

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(1). G. White: The natural history of Selborne; edited by R. Mabey. Harmondsworth: Penguin, 1977, p. xvii.

(2). M.M. Postan: The mediaeval economy and society. Harmondsworth: Penguin 1975, p. 87.

(3). See for instance the list compiled by S. and B. Webb: The manor and the borough. London: Cass, 1963, pp.10-11.

(4). F.J.C. Hearnshaw: Leet jurisdiction in England especially illustrated by the records of the court leet of Southampton. (Southampton Record Society [5]) Southampton: Cox and Sharland, 1908, p. 122 et seq.

(5). Ibid.: p. 98.

(6). G.L. Gomme: Court rolls of Tooting Beck manor. Vol 1. [London]: London County Council, 1909, GLRO: M95/BEC/26, 39.

(7). F.J.C. Hearnshaw: op. cit., p. 348.

(8). SCRO: 2/1/9, 1745.

(9). S. and B. Webb: The manor and the borough, p. 64, on the other hand, felt compelled to include it in their survey of local administration.

(10). SCRO: (CB=Court Baron; CL=Court Leet): 187/1/4,5 Banstead, CB; 196/1/6,7 Dorking, CL; 212/42/16 Ankerwyke Purnish CB; 186/1/3 Horton, CB, CL; 212/46/3, Ewell cum Cuddington CB, CL; 192/5/1 Abinger CB; P25/21/11 langham CB, Cl; 76/1 Frimley CB; 7/1/6 Caterham CB, CL; 489/8 Headley CB, CL; 15/1/1 Waterville Esher CB; 34/8,9 Great Bookham CB, CL; 181/17/8 Cobham CB, CL; 181/13/2 CB; 2/1/9 Biggin & Tamworth CB, CL; Acc 752 Stoke d´Abernon CB, CL; 58/4/20 Petersham CB, CL; 204/2/3 Chellows CB; 329/5/1 Wescott CB; 37/1/2 Moulsey Prior CB; 320/1/2 Ravensbury CB; 61/1/56,57 Tandridge; Acc 1180 East Betchworth CB, CL; 97/2/3b Walton Leigh, CL; 97/1/8,9 Chertsey Beomond CB; 67/1/8,9 Nutfield CB, CL; Acc 1180 Fetcham Cb, CL; 31/1/15 Ebbisham CB, CL.

(11). W. Stevenson: General view of the agriculature of the county of Surrey drawn up for the consideration of the Board of Agriculature and internal improvement. London: Sherwood, Nechy and Jones, 1813, p. 76.

(12). F. Turner: Egham, Surrey: a history of the parish under church and crown. Egham: Box and Gilham, 1926, p. 235.

(13). PRO(C): LR3/65/9.

(14). SCRO: 34/1/8.

(15). SCRO: 2/1/9.

(16). PRO(C): LR3/87/fo. 40r.

(17). F. Turner: A history of Thorpe in the county of Surrey. [S.l.]: [F. Turner], 1924, p.97.

(18). SCRO: 34/1/9, 1742.

(19). Extracts from the court rolls of the manor of Wimbledon extending from I Edward IV to A.D. 1864 ... London: Wyman and Son, 1866, p. 325. Cattle, sheep and hogs were the normally recognised commonable beasts, although sheep and hogs presented problems because the former cropped grass very closely and the latter caused damage. See W.O. Ault: Open field farming in mediaeval England: a study of village by-laws. London: Allen and Unwin, 1972, pp. 47-50.

(20). Extracts from the court rolls of the manor of Wimbledon extending from I Edward to A.D. 1864 ... p. 229.

(21). SCRO: 439/9.

(22). PRO(C): LR3/85 fo. 153 v.

(23). The right to nominate the beneficiaries of any charity was jealously guarded. In Egham, a contest for the nomination developed between the Coopers´ Company and the parish authorities and was taken to Chancery. See below and references 191 and 192 of this chapter.

(24). GLRO: M95/BEC/39, 1742.

(25). Extracts from the court rolls of the manor of Wimbledon extending from I Edward to A.D. 1864 ... p. 317.

(26). PRO(C): LR3/86 fo. 159 r.

(27). PRO(C): LR3/97 fo. 40 r.

(28). The manor extended beyond the parish boundaries, however, so the order did restrict geographically the number of people affected by it.

(29). R. Sedgwick: The House of Commons, 1715-1754. 2 vols. London: HMSO, 1970, vol 2, p. 108.

(30). BL(M):Add Mss 32875.f. 79 r.

(31). PRO(C): LR3/87 fo. 40 r.

(32). SCRO: 34/1/8,9.

(33). VCH, vol. 3, p. 110.

(34). Ibid.: 3, p. 312.

(35). Ibid.: 3, p. 255.

(36). Ibid.: 3, p. 454.

(37). Ibid.: 3, p. 196.

(38). Ibid.: 4, p. 336.

(39). Ibid.: 3, p. 168.

(40). Ibid.: 3, pp. 190, 191, 215.

(41). Ibid.: 3, p. 174.

(42). Ibid.: 3, p. 6.

(43). Ibid.: 4, p. 183.

(44). Ibid.: 3, pp. 146, 147.

(45). F. Turner: A history of Thorpe, p. 96. 'From the earliest times down to the seventeenth century, every tenant had to take the oath of fealty to the lord, on entry, binding himself to observe the customs of the manor, and to be an obedient servant of the lord. In the later rolls we meet with a conventional phrase "and his fealty is respited". The custom had evidently become distasteful, for the tenant had to kneel before the steward, and placing his hands between those of the official, he repeated the form of the oath, and there are frequent cases where this custom had to be enforced by distraint.'

(46). SCRO: 174/4/1.

(47). PRO(C): LR3/66 fo. 139 v. At Esher, fealty was still performed in 1738: see SCRO: 15/1/1 p. 51.

(48). SCRO: 174/4/1.

(49). L. Bonfield: Marriage settlements, 1601-1740: the adoption of the strict settlement. Cambridge: Cambridge University Press, 1983, p. 86.

(50). It goes without saying that where women owned property, they were expected to contribute to the rates, although no instance of a woman ratepayer attending parish meetings has been noted for our period in Surrey. See also reference 74 of this chapter.

(51). SCRO: 66/1/2-25.

(52). The majority of presentments in Wimbledon in our period relate to unlawful inclosure of the commons. See Extracts from the court rolls of the manor of Wimbledon extending from I Edward to A.D. 1864 ...

(53). S. Webb & B. Webb: The manor and the borough, p. 33.

(54). Ibid.: p. 50.

(55). GMR: LM 260-264; 70/68/1,2.

(56). See chapter three of this thesis.

(57). S. Webb & B. Webb: The parish and the county. London: Cass, 1963, p. 491.

(58). SCRO: QS2/1/17 Midsummer sessions, 1749.

(59). SCRO: QS2/1/2 p. 468.

(60). SCRO: QS2/5/- High constables' attendance lists for the whole period.

(61). SCRO: QS2/6/Xmas 1737/8/34.

(62). M.D. George:
London life in the eighteenth century. New ed. Harmondsworth: Penguin, 1966, p. 300. A fascinating account of the Minters' organisation and of their defiance of authority is given in the House of Commons journals, 9 & 10 Geo I Parl 2 Session iA, 1722 & 1723, pp. 132-133 and 154-155. The bill was passed in the course of that session. See also R.L. Brown: 'The Minters of Wapping: the history of a debtors' sanctuary in eighteenth-century East London'. East London Papers (1972), pp. 77 et seq.

(63). SCRO: QS2/1/8, p. 241. This order specified that the Clink liberty had to return jurors for the Michaelmas and Epiphany sessions only, and 18 rather than 24 of them.

(64). GLRO: Index to Surrey probate records.

(65). E.R. Brinkworth: 'The study and use of Archdeacons' Court records: illustrated from the Oxford records (1566-1759)'. Transactions of the Royal Historical Society (4th series) 25 (1943), p. 102.

(66). W.A. Pemberton: 'Some notes on the court of the archdeaconry of Buckingham in the eighteenth and early nineteenth centuries.' Records of Buckinghamshire 22 (1980), p. 19.

(67). In Surrey, as in Buckinghamshire, the records of these two courts are hopelessly intermingled, and the court officials acted in both. The distinction between the two is therefore theoretical only.

(68). GLRO: D/W/PC/1/12, 62 r.-63 r.

(69). GLRO: D/W/PC/1/12, 113 r.

(70). GLRO: D/W/PC/1/13, 1 r.

(71). GLRO: D/W/PC/1/12, 82 v., 96 r., 101v., 174v., 1746-1750/1.

(72). GLRO: D/W/OB/5, 20v.

(73). GLRO: D/W/OB/5, 3 r., 3V., 4r.

(74). GLRO: D/W/OB/7, 14 r. Mary Wood had been appointed sexton in 1751. In 1764, her appointment was confirmed and she took the oath of allegiance and supremacy, an indication of the importance attached to the office.

(75). GLRO: D/W/OB/7,7 v.

(76). GLRO: D/W/ cause papers uncatalogued, 1743/9.

(77). GLRO: D/W/ cause papers uncatalogued, 1742/13.

(78). GLRO: D/W/ cause papers uncatalogued, 1740/26.

(79). W.A. Pemberton: op. cit., p. 27.

(80). Ibid.: p. 22.

(81). GLRO: D/W/PC/1/12, 60 v.

(82). GLRO: D/W/PC/1/12, 100 r.

(83). GLRO: D/W/ cause papers uncatalogued, 1739/4.

(84). GLRO: D/W/PC/1/12, 69 v.

(85). GLRO: D/W/PC/1/12, 113 v.

(86). GLRO: D/W/PC/1/12, 133 v.

(87). Indeed it seems a pity that recent historical analyses of marriage should not have taken this source into account.

(88). W.G. Tate: op. cit., p. 10, suggests that this was the case by 1066. It may be pointed out, however, that in northern England parish boundaries were settled much later.

See also G.W.O. Addleshaw: The beginnings of the parochial system. (St Anthony's Hall Publications 3). 3rd ed. York: St Anthony's Hall, 1970.

(89). S. Webb & B. Webb: The parish and the county, p. 12. The parish was formed in 1730.

(90). Examples of manors which extended beyond the boundaries of a single parish include Wimbledon and Kingston.

(91). When it was proposed to build a new church in Bermondsey in 1752, the following was written to Sir James West to enlist his support: 'The parish of Bermondsey is of great extent, and divided into two parts or divisions called the land side, and the water side, - For many years past, the inhabitants of the water side have complained of the remoteness of the church, which is scituate in the land side division, and is about a mile and a half from the extremity of the water side division, - This complaint hath been, and still is of great detriment to proprietors of estates in the water side division, as many houses stand empty on that account alone ... ' (BL(M): Add Mss. 36584.f.22.)

(92). The great period for the creation of new parishes out of the mediaeval ones is the second half of the nineteenth century of course.

(93). New parishes were founded on the passing of an act of parliament. See M.D. George: op. cit., p. 406 et seq. for a list of new parishes in the London area in our period.

(94). London Evening Post, 29 March-1 April 1735, ' ... when a special Jury of Gentlmen of great Fortune in that county brought in their verdict for Beddington parish and 40 shillings damages'. For a similar case between Horne and Worth (Sussex) parishes, see SCRO: QS 2/1/13, Midsummer sessions, 11 July 1727.

(95). W.G. Tate: op. cit., p. 12 suggests that up to roughly 1536, the incumbent was the nucleus around which the whole parochial organisation was to develop.

(96). Many examples of such charitable bequests are mentioned by W.K. Jordan in his various works. See in particular The charities of London, 1480-1660. London: Allen and Unwin, 1960, pp. 202-3; The charities of rural England, 1480-1660. London: Allen and Unwin, 1961, pp. 50-51, 143-149, 294-298; Philanthropy in England, 1480-1660. London: Allen and Unwin, 1964, p. 278.

(97). A statute of 1563 (5 Eliz c.13) extended statute labour to six days. Abolished during the Commonwealth, it was reintroduced in 1662 (14 Chas II c.6.).

(98). W. Stevenson: op. cit., p. 567.

(99). W.G. Tate: op. cit., p. 14.

(100). C. Burt: The Richmond vestry: notes of its history and operations from 1614 to 1890. Richmond: R.A. Darnill, 1890. Cited in S. Webb & B. Webb: The parish and the county, p. 174.

(101). Ibid.: p. 219.

(102). Ibid.: p. 249.

(103). [D. Defoe]: Parochial tyranny; or, The housekeeper's complaint against the insupportable exactions, and partial assessments of select vestries, &c ... by Andrew Moreton [pseud.]. London: J. Roberts, 1727.

(104). S. Webb & B. Webb: The parish and the county, p. 219.

(105). SCRO: P48/5/1.

(106). SCRO: 2381/8/1 p. 3.

(107). Ibid.: p. 191.

(108). SCRO: 2384/3/1.

(109). SCRO: Ibid. and P52/3/1.

(110). GLRO: P95/TRI 1/3 p. 34.

(111). Ibid.: p. 134.

(112). SCRO: 2381/8/1 p. 217.

(113). 32 Hen VIII c. 15.

(114). S. Webb & B. Webb: The parish and the county, pp. 188-189.

(115). GLRO: P92/SAV/ 452, 8 April 1730.

(116). Ibid.: 17 July 1730.

(117). SCRO: QS2/6/Ea 1738/449.

(118). GLRO: P95/TRI 1/3 p. 34.

(119). SCRO: 2384/3/1, November 1732.

(120). SCRO: P61/1/1.

(121). SCRO: P6/3/1.

(122). SCRO: 2384/3/1, 8 March, 17 March and 22 March 1730.

(123). S. Webb & B. Webb: The parish and the county, p. 130.

(124). SCRO: P61/1/2.

(125). SCRO: 2384/3/1 8 April 1735.

(126). S. Webb & B. Webb: The parish and the county, p. 31.

(127). SCRO: P61/1/2, 1746.

(128). See for instance, SCRO: P6/3/1, 15 April 1745.

(129). SCRO: 2381/8/1 p. 7.

(130). S. Webb & B. Webb: The parish and the county, p. 111. Petersham at least followed the statutory requirement which provided for the appointment to take place in December. In a number of other parishes, this was done at Easter.

(131). GLRO: P95/TRI 1/5 p. 89.

(132). Ibid.: p. 54 and 83 for instance.

(133). Ibid.: p. 123.

(134). The figures were calculated on the basis of the list of officers published as an appendix to W.E, Morden: The history of Tooting-Graveney, Surrey. London: E. Seale, 1897.

(135). Two of the three exceptions were acting as substitutes in their third year in the office of churchwarden.

(136). The use of a Tyburn Ticket - issued to the prosecutors of convicted felons to exempt them from parish office - is only recorded once in all the minutes investigated here.

(137). [D. Defoe]: op. cit., p. 29: 'Instead of the dangerous, fatiguing, expensive, and at present, vulgar esteem'd office of constable, which is the vestry' revenge, and always bestow'd on those who mutiny; (...) two or more decay'd parishioners be made constables, during good behaviour.'

(138). SCRO: 2384/3/1, 6 December 1747; P33/4/1 9 December 1736.

(139). GLRO: P95/TRI 1/4 p. 100.

(140). SCRO: P61/1/1 1734.

(141). SCRO: QS2/1/14 Epiphany 1730/1; GLRO: P95/TRI 1/5 p. 49.

(142). SCRO: P39/3/1(a) 1758.

(143). SCRO: P52/3/1.

(144). W.H. Blanch: Ye parish of Camerwell: a brief account of the parish of Camberwell, its history and antiquaries. London: E.W. Allen, 1875, p. 123.

(145). It is interesting to note for instance that W.G. Tate's book only mentions the beadle once in his index.

(146). W.E. Morden: op. cit., p. 73.

(147). SCRO: 2381/8/1 p. 35.

(148). At Kingston the vestry meetings usually took place in the chancel of the church. At Weybridge, from 1763, the meetings were to take place only in the church. This was also the case at Tooting for part of our period, although adjournments to the local public house were not unknown: see W.E. Morden op. cit., p. 64: 'Att a vestry. Called in the Parish Church of Tooting Graveney and a Journed to the Castell in the same place on Thursday following by desire of Mr Arnoll thair being nothing to doe but drinking a cheerfull glass and depart for good friendship.'

(149). GLRO: P95/TRI 1/3 p. 156.

(150). Thus at Barnes in 1743 Samuel Baker, rector, was asked to continue investing money bequeathed to the parish until a decision about the bequest should be taken. SCRO: P6/3/1, 27 December 1742.

(151). W.E. Morden: op. cit., p. 55.

(152). GLRO: P95/TRI 1/4 p. 37.

(153). GLRO: P92/SAV/452. See BL(M) Add Mss 36135. f. 45 for an account of the power of the vestry to elect its ministers after restoration. From this, it appears that in July 1664 a minister was elected by the 'populace'. The following month, an order was passed constituting the vestry and restricting its number to 32. This order was followed by a second election.

(154). SCRO: P33/4/1.

(155). GLRO: P92/SAV/452 21 November 1734: the peal was recast completely and enlarged from 7 to 12 bells.

(156). GLRO: P95/TRI 1/3 p. 213.

(157). SCRO: P48/5/1.

(158). SCRO: 2384/3/1 8 April 1735.

(159). SCRO: P48/5/1, 22 May 1757.

(160). SCRO: P6/3/1, pp. 115-116.

(161). SCRO: 2384/3/1, November 1732.

(162). SCRO: P6/3/1, p. 125.

(163). C.J. Marshall: 'The rate book of the parish of Cheam from 1730 to 1753'. Surrey Archeological Collections 47 (1941), p. 74.

(164). SCRO: P43/3/1

(165). SCRO: P21/2/5

(166). SCRO: P44/1/1, 2.

(167). SCRO: 2375/2/1 and P56/7/38.

(168). In addition to Charles J. Marshall's assertion that the Cheam accounts were inaccurate, see W.E. Morden's assessment of the eighteenth century overseers' accounts for eighteenth century Tooting: 'The accounts in this book are very imperfectly kept, but are regularly sworn before the justices'. (op. cit., p. 194).

(169). SCRO: P2/3/5.

(170). E.W. Brayley: A topographical history of Surrey. Vol. 2. London: G. Willis, 1850, p. 205.

(171). Ibid.: vol 3, p. 479.

(172). Ibid.: vol 3, p. 92.

(173). SCRO: 2399/7/1.

(174). SCRO: P47/2/536-537.

(175). SCRO: P61/1/2, 30 January 1749.

(176). W.E. Morden: op. cit., p. 258.

(177). GLRO: P92/SAV/452, January 1719/20.

(178). SCRO: 2384/3/1, 17 October 1763.

(179). GLRO: P95/TRI 1/3 p. 2.

(180). This procedure was still a standard way of coping with, for instance, disputes between landlords and tenants of substantial farms at the end of tenancies in the first half of this century.

(181). GLRO: P92/SAV/452, 12 May 1726.

(182). SCRO: 2384/3/1, 8 March 1730.

(183). Ibid.: 31 October 1758.

(184). F. Turner: Egham, p. 198.

(185). GLRO: P92/SAV/452, 6 November 1718.

(186). Other local provision included a cage at Tooting, a whipping post and stock house at Egham and a special gate at Walton to prevent the commoners' cattle from straying onto the common.

(187). SCRO: 2384/3/1, 2 September 1753.

(188). SCRO: 2381/8/1, p. 8.

(189). M.M. Postan: op. cit., p. 133.

(190). F. Turner: Egham, p. 204.

(191). Ibid.: p. 209.

(192). GLRO: P92/SAV/452, 9 March 1735.

(193). Loc. cit.

(194). SCRO: P33/4/1. 11 January 1768.

(195). SCRO: 2399/7/1. fo. 16.

(196). A similar organisation had developed earlier in Camberwell: see W.H. Blanch: op. cit., p. 107.

(197). See for instance the minutes of Walton vestry, SCRO: 2381/8/1, p. 67.

(198). SCRO: LA/5/52-56, covering the period 1753-1799, 1814-1825. P40/3/1 for 1799-1814. See B. Berryman (ed.): Mitcham settlement examinations, 1784-1814. (Surrey Record Society 27). Guildford: Surrey Record Society, 1973.

(199). Gentleman's Magazine, June 1742, p. 303.

(200). [D. Defoe]: op. cit., p. 9.

(201). Ibid.: p. 4.

(202). J. Phipps: The vestry laid open; or, A full and plain detection of the many gross abuses, impositions and oppressions of select vestries. London: J. Millan, 1739, p. 60.

(203). [D.Defoe]: op. cit., p. 27.

(204). J. Phipps: op. cit., p. 59.

(205). F. Turner: Egham, p. 195.

(206). GLRO: P95/TRI 1/5 p. 54.

(207). SCRO: P48/5/1, 26 December 1730.

(208). SCRO: P6/3/1, pp. 156 et seq.

(209). W.E. Morden: op. cit., p. 62. This was a reiteration of an order first passed in 1739.

(210). Cited in R.K. McClure: Coram's children: the London Foundling Hospital in the eighteenth century. New Haven & London: Yale University Press, 1981, p. 106.

(211). W.E. Morden: op. cit., p. 54.

(212). GLRO: P92/SAV/452, 19 September 1734.

(213). SCRO: P33/4/1, 8 May 1740.

(214). W.H. Blanch: op. cit., p. 121.

(215). W.E. Morden: op. cit., p. 56.

(216). GLRO: P95/TRI 1/5 p. 200.

(217). Ibid.: p. 239.

(218). S. Webb & B. Webb: The parish and the county, pp. 52-53.

(219). SCRO: 2381/8/1 p. 233.

(220). N. Landau: The Justices of the Peace, 1679-1760. Berkeley: University of California Press, 1984, p. 209 & p. 218.

(221). Ibid.: p. 220.

(222). Ibid.: p. 219.

(223). This is the only evidence given by Landau for the absorption by Petty Sessions of Tax Commissioners´ meetings.

(224). KB: KS 1/2/1.

(225). N. Landau: op. cit., p. 23.

(226). Ibid.: p. 27.

(227). KB: KS 1/2/1 fo. 159 r.

(228). N. Landau: op. cit., pp. 220-221.

(229). J. Broad: op. cit., p. 105.

(230). N. Landau: op. cit., pp. 246-247.

REFERENCES TO CHAPTER TWO.

(1). C.A.F. Meekings (ed.): Surrey hearth tax, 1664. (Surrey Record Society 17). London: Surrey Record Society, 1940, p. cxxxvii. When talking about the sheriff's time, Meekings is referring to the early levies of the Hearth Tax, when the officer in charge of the collection of the tax was the Sheriff.

(2). See for instance A.G. Parton: 'The hearth tax and the distribution of population and prosperity in Surrey.' Surrey Archeological Collections, 75 (1984), pp. 155-160.

(3). The multiplier used for the estimated population in this table, 4.4, is that used by Christopher Chalklin in his book. C.W. Chalklin: The provincial towns of Georgian England: a study of the building process, 1740-1820. London: E. Arnold, 1974, p. 321. He suggest in fact that this may lead to an underestimate of the population in the larger towns.

(4). T. Allen: History of the counties of Surrey and Sussex. 2 vols. London: I.T. Hinton, 1829, p. 197. Allen further estimates that by 1750 it had reached 207,000.

(5). A. McInnes: The English town, 1660-1760. London: Historical Association 1980, p. 6.

(6). C.W. Chalklin: op. cit., pp. 10 & 26. One presumes that he did not take into account towns like Kingston and Croydon because of their proximity to London.

(7). P.F. Brandon: 'Land, technology and water management in the Tillingbourne valley, Surrey, 1560-1760'. Southern History, 6 (1984), p. 99.

(8). C.W. Chalklin: op. cit., p. 11.

(9). D. Defoe: A tour through England and Wales, divided into circuits or journies. Vol. 1. London: Dent, 1927, p. 144.

(10). Ibid.: p. 142.

(11). Ibid.: p. 153.

(12). Ibid.: p. 157.

(13). J. Hanway: A journal of eight days journey from Portsmouth to Kingston upon Thames ... 2nd ed. 2 vols. London: H. Woodfall and C. Henderson, 1757, p. 338.

(14). Ibid.: p. 341.

(15). D. Defoe: op. cit., vol. 1, p. 146.

(16). L. Stone & J.C.F. Stone: An open elite?: England, 1540-1880. Oxford: Clarendon Press, 1984, p. 46.

(17). W. Stevenson: op. cit., p. 73.

(18). GMR: 52/8/7 (1-2) Draft notes by William Bray, c. 1831-2, entitled: 'Families formerly possessed of considerable estates now broken into parts and in the hands of various persons'.

(19). C. Gross: A bibliography of British municipal history, including gilds and parliamentary representation. 2nd ed. Leicester: Leicester University Press, 1966, p. viii.

(20). M. Reed: The Buckinghamshire landscape. London: Hodder and Stoughton, 1979, p. 109.

(21). C. Gross: op. cit., p. xv.

(22). E. Boger: Bygone Southwark. London: Simpkin, Marshall, Hamilton, Kent, 1895, p. 191.

(23). D. Defoe: op. cit., vol. 1, pp. 169 and 170.

(24). T. Allen: op. cit. vol. 1, p. 200.

(25). D.J. Johnson: Southwark and the City. London: Oxford University Press for the Corporation of London, 1969, p. 223.

(26). Ibid.: p. 319.

(27). Typical of the publications of the period is G.R. Corner: A concise account of the local government of the borough of Southwark, and observations upon the expediency of uniting the same more perfectly with the City of London, or of obtaining a separate municipal corporation ... Southwark, [s.n.], 1836.

(28). CLRO: Southwark sessions volumes, 223F.

(29). CLRO: Southwark sessions abjuration rolls, 223C.

(30). CLRO: 223F, June 1746. This contract was made in the name of Southwark, not the City.

(31). CLRO: 223E from 1746.

(32). CLRO: 225E, box 17; 31 July 1747 - 12 August 1747.

(33). CLRO: 223F, January 1747

(34). CLRO: 225E, box 17, 26 June 1745.

(35). Ibid.: 10 June 1745.

(36). Ibid.: 26 March 1746.

(37). Ibid.: 9 January 1747.

(38). Ibid.: 30 March 1757.

(39). Ibid.: 5 January 1750.

(40). The turning point seems to have occurred in the 1740's, when significantly fewer presentment are returned by the constables. CLRO: 224 A-D, especially box 11.

(41). CLRO: 225E, box 17, 26 July 1754.

(42). Ibid.: 27 June 1745.

(43). D.J. Johnson: op. cit., p. 317.

(44). Ibid.: p. 318.

(45). BL(M): Add Mss 6167.f.185.

(46). E.M. Dance (ed.): Guildford borough records, 1514-1546. (Surrey Record Society 24), Guildford: Surrey Record Society, 1958, pp. xiv-xv.

(47). E.R. Chamberlin: Guildford: a biography. London: Macmillan, 1970, p. 74.

(48). O. Manning: op. cit. Vol 1, p. 37. A full summary of the procedure in the eighteenth century, which accords with this description is given in the main corporation minutes, GMR BR/OC/1/3 fo. 80v.

(49). GMR: BR/OC/1/3 fo. 102v.

(50). Ibid.: 101r.

(51). E.R. Chamberlin: op. cit., p. 76.

(52). GMR: BR/OC/1/11. See also Charles Gross: op. cit. vol. 2, p. 106.

(53). E.M. Dance: op. cit., p. xli.

(54). GMR: BR/OC/3/2 and, for example, BR/QS/1/1 p. 151.

(55). D.L. Powell: Guide to archives and other collections of documents relating to Surrey: borough records. (Surrey Record Society 29). Kingston upon Thames: Surrey Record Society, 1929, p. 23.

(56). GMR: BR/QS/1/1.

(57). D.L. Powell: op. cit., p. 22.

(58). W.D. Biden: The history and antiquities of the ancient and royal town of Kingston-upon-Thames. Kingston: W. Ludsey, 1852, p. 66.

(59). The corporation of Kingston acquired increasingly important and valuable rights from the Crown very systematically and purposefully. For the period between 1200 and 1688, E.W. Brayley lists no fewer than 25 corporation charters, some of which were reiterations of earlier grants. The most important ones, perhaps, are those of 1200, when the fee farm of the borough was granted to the free men of Kingston; of 1256 when the right to hold a guild merchant was given; and of 1441 when the freemen of Kingston became the 'body corporate'. E,W, Brayley: op. cit. Vol. 3, p. 14.

(60). W.D. Biden stated that these were held on the Saturday or Monday before Michaelmas day; in the eighteenth century, it would appear from the minutes of the Court of Assembly that the elections could also be held on the Sunday before that feast.

(61). KB: KB16/15 p. 4.

(62). W.D. Biden: op. cit., p. 67.

(63). KB: KB1/2 fo. 12 r.

(64). Ibid.: 13 r.

(65). Ibid.: 14 r.

(66). Ibid.: 24 r.

(67). Loc. cit.

(68). Ibid.: 12 r.

(69). Ibid.: 15 r.

(70). Ibid.: 44 v.

(71). A. Daly: Royal Borough of Kingston upon Thames: guide to the borough archives. Kingston: Kingston Borough Council, 1971, p. 64.

(72). KB: KE1/1/23

(73). KB: KE1/1/32

(74). G. Roots: The charters of the town of Kingston upon Thames translated into English. London: T. Cadell jr. and W. Davies, 1797, p. 180.

(75). KB: KE 2/2/36-66. The session files show that Kingston Quarter Sessions took cognizance of a wide variety of business, both criminal and civil.

(76). The Bailiff´s sessions are called Petty Sessions by 1760. See KB: KE 2/5/4 fo. 166 r.

(77). KB: KE 2/5/1-5.

(78). KB: KE 2/5/2/ fo. 62 r.

(79). This is significant: it cannot be argued, therefore, in the case of Kingston, that the weakness of the Petty Sessions there might have been due to strenuous work and interference by the county justices in the jurisdiction of the Bailiffs´ sessions.

(80). KB: KE 4/2/36 s.

(81). Ibid.: 38 a.

(82). KB: KB 8/1/1. See also: C. Gross: op. cit. Vol 1, p. 123.

(83). KB: KB 11/1/3.

(84). A. Daly: op. cit., p. 18.

(85). KB: KB 11/1/4

(86). T. Allen: op. cit. Vol. 2, p. 229.

(87). R.N. Milford: Farnham and its borough. London: Longman Brown, Green Longmans and Roberts, [1859], p. 29.

(88). Ibid.: p. 82.

(89). T. Allen: op. cit. Vol. 2, pp. 229-230. The records are now at the Waverley District Council Locality Office and include a court book for 1566-1664, and Bailiff´s accounts for 1604-1778.

(90). SCRO: 2253/1/3.

(91). Ibid.: fo. 105 r. At that election, 27 voters signed their names in the book.

(92). Ibid.: fo. 89v and 95 r.

(93). BL(M): Add Mss 6167.f.254.

(94). GMR: LM297/1.

(95). T. Allen: op. cit. Vol. 2, p. 68.

(96). D.L. Powell: op. cit., p. 77.

(97). D. Defoe: op. cit. Vol. 1, p. 155.

(98). VCH, 4, p. 450.

(99). KB: KB 1/2/44v-45 r.

(100). Ibid.: for 31 v.

(101). Ibid.: for 39 r.

(102). A. Daly: op. cit., p. 33. See also BL(M): Landsdowne 226.f.56.

(103). GMR: BR/OC/1/3 fo. 101 v.

(104). Ibid.: 93 v.

(105). SCRO: 2253/1/1 fo. 101v.

(106). KB: KB16/15

(107). Ibid.: p. 7.

(108). C.W. Chalklin: op. cit., p. 5.

(109). P. Clark (ed.): Country towns in pre industrial England. Leicester: Leicester University Press, p. 17.

(110). H. Carter (ed.): Guildford freemen's books, 1655-1933. Guildford: Guildford Corporation, 1963, p. 3.

(111). GMR: BR/BUR/2(a).

(112). The right to vote was also granted to freeholders who paid scot and lot.

(113). H. Carter (ed.): op. cit., pp. 38-39.

(114). KB: KB 11/1/3-4. The figures appear to be distorted; in fact, the three years before 1730 account for over 30 cases. The decline is therefore continuous.

(115). A. Daly: op. cit., p. 18.

(116). In the Tudor period, tolerations were openly used as a means of attracting craftsmen with unusual skills to the borough.

(117). KB: KB1/2 fo. 25 v, 27 r, 58 v, 59 v, 64 v, 111r.

(118). KB: KB19/3/1-47.

(119). No real pattern can be discerned to explain the variation in the amount of the fines.

(120). KB: KB1/2 fo. 53 r.

(121). Ibid.: fo. 114 r.

(122). Ibid.: fo. 95 r.

(123). KB: KB9/1 pp. 230-412 shows the regularity with which the Corporation not just granted tolerations, but indeed the right to open shops in the borough, a development which was bound to affect the amount collected in tolls for instance.

(124). SCRO: 2253/1/3,

(125). KB: KB16/17

(126). KB: KB16/22 (1-2).

(127). [J. Russell]: The history and description of Guildford, the county town of Surrey. Guildford: J. Russell, 1777, p. 3.

(128). D.L. Powell: op. cit., p. 1.

(129). KB: KB 1/2 fo. 12 r.

(130). Ibid.: fo. 108 v.

(131). KB: KB 16/13

(132). KB: KB 16/23

(133). Report on municipal corporations, 1834. Kingston Quarter Sessions were abolished in 1835.

(134). GMR: BR/QS/1/1.

(135). When the two courts, which used the same premises, had to meet on the same day, the borough magistrates were expected to adjourn their proceedings to some more convenient date. See D. Johnson: op. cit., p. 242 and SCRO: Q52/1/18 Jan. 1750.

(136). R. Sedgwick: The House of Commons, 1715-1754. Vol. 2. London: HMSO, 1970, p. 195.

(137). DNB.

(138). A. Anderson: History and antiquities of Kingston upon Thames. Kingston: C. Yarrow, 1818, p. 24.

(139). Ibid.: p. 26.

(140). KB: KE1/1/32.

(141). KB: KB16/12/1.

(142). GMR: BR/QS/1/1 p. 149.

(143). KB: KB1/2 fo. 47 r.

(144). 28 Geo II. 'An act to enable the churchwardens, overseers and inhabitants of the parish of St Saviour in the borough of Southwark in the county of Surrey, to hold a market within the said parish not interfering with the High Street ... '

(145). GLRO: A/JM/773. This John Lade was not the county magistrate active in the first half of the century.

(146). KB: KS1/2/1 fo. 118 r.

(147). See T. Allen: op. cit., vol. 2, p. 362.: 'This town sent members to parliament in the fourth, fifth and sixth years of Edw. II and the fifty seventh of Edw III. It ceased to be a borough, in consequence of a petition from the Corporation (recorded in the town-clerk's office); the prayer of which was that they might be relieved from the burden of sending members to parliament.'

(148). L. Namier and J. Brooke: The House of Commons, 1754-1790. Vol. 1, London: HMSO, p. 385.

(149). R. Sedgwick: op. cit. Vol. 1, p. 328. In spite of growing control of the Claytons, disputes about the number of burgage tenements were taken to the Commons. See T. Carew: An historical account of the rights of elections of the several counties, cities and boroughs of Great Britain. London: J. Nourse, 1755. [This volume was dedicated to Arthur Onslow.]

(150). Ibid..: p. 330.

(151). Ibid.: p. 329.

(152). L. Namier and J. Brooke: op. cit., p. 386.

(153). [J. Russell]: Guildford: a descriptive and historical view of the county town of Surrey. Guildford: G., W., and J. Russell, 1845, p. 22.

(154). P. Borsay: 'The English urban renaissance: the development of provincial urban culture, c. 1680-c. 1760.' Social History 5 (1977), pp. 590-591.

(155). E.R. Chamberlin: op. cit., p. 100.

(156). See chapter four below.

(157). E. R. Chamberlin: op. cit., p. 12. Russell, in his history of Guildford, does not mention the Onslow contribution and emphasises the fact that it was built by public subscription. [J. Russell]: op. cit., p. 110.

(158). E.R. Chamberlin: op. cit., p. 12.

(159). BL(M): Add Mss 36232.ff.5-15.

(160). D. Cannadine: Lords and landlords: the aristocracy and the towns, 1774-1967. Leicester: Leicester University Press, 1980, p. 33.

(161). R.C.W. Cox: 'The old centre of Croydon: Victorian decay and redevelopment', in A. Everitt (ed.): Perspectives in English urban history. London: Macmillan, 1973, p. 187.

(162). P. Clark: 'The alehouse and the alternative society', in D. Pennington and K. Thomas (eds.): Puritans and revolutionaries. Oxford: Clarendon Press, 1978, p. 72. Peter Clark was not, however, claiming for public houses a special function as 'radical levelling centre(s)'.

(163). E. Boger: op. cit., p. 247.

(164). E.W. Swanton: Bygone Haslemere: the short history of the ancient borough and its immediate neighbourhood from earliest times. London: West Newman, 1914, p. 286.

(165). Ibid.: p. 287.

(166). E.W. Brayley: A topographical history of Surrey. Vol. 3. London: G. Willis, 1850, p. 42.

(167). House of Commons Journal, 9 & 10 Geo I, part. 2, sess. 1A, 1722 & 1723. p. 155.

REFERENCES TO CHAPTER THREE

(1). H. Jenkinson and D. Powell (eds.): op. cit. Vol. 5, p. 29.

(2). J.D. Chambers: Nottinghamshire in the eighteenth century: a study of life and labour under the squirearchy. 2nd ed. London: Cass, 1966, p. 46.

(3). C. Hill: Reformation to industrial revolution. Harmondsworth: Penguin, 1971, p. 222.

(4). See for instance SCRO: QS 2/1/18 Epiphany 1749/50. 'Whereas the Sheriff's officers are not sufficient to keep the peace at this court by reason of the great multitude of spectators and others whose business it is to attend the said court, it is therefore ordered that the constables of the parish of Rotherhith (sic) do attend with their long staves on Thursday the eleventh day of this instant January at ten o' clock in the forenoon at the Town Hall at St Margaret's Hill in order to keep the peace, as they will answer the same at their peril.'

(5). For a more detailed discussion of this idea, see chapter 6 below. P. Linebaugh: 'The Ordinary of Newgate and his account', in J.S. Cockburn (ed.): Crime in England, p. 247 et seq. traces the development of this publication.

(6). See R. Chamberlain: The complete justice. London: sold by H. Twyford, 1681, or J. Bond: Compleat guide for Justices of the Peace. London: 1685, for instance.

(7). H.S.G. Halsbury: The laws of England. 4th ed. London: Butterworths, 1973-. The handbook literature is discussed in many of the older standard works, notably W.S. Holdsworth: Sources and literature of English law. Oxford: Clarendon Press, 1952, pp. 112-161, and P.H. Winfield: The chief sources of English legal history. New York: Burt Franklin, 1925, pp. 253-340.

(8). The third edition of Joseph Shaw's manual, The practical Justice of the Peace, was advertised in the Craftsman 438, 17 January 1735/6. (Joseph Shaw was a Surrey Justice).

(9). For instance, one may cite the following three anonymous works: The compleat English copyholder; or, Guide to Lords of the Manors, Justices of the Peace, tenants, stewards, attornies, bailiffs, constables, gamekeepers, haywards, reeves, surveyors of the highways &c... London: Innys and Manby, 1735; The office of the clerk of assizes together with the office of the peace. London: H. Twyford, 1681; The complete juryman; or, A compendium of the laws relating to jurors. London: A. Millar, 1752.

(10). G.R. Elton: 'Crime and the Historian', in J.S. Cockburn (ed.): Crime in England, p. 2.

(11). SCRO: QS 2/1/16 Michaelmas 1743.

(12). SCRO: QS 2/1/15 Midsummer 1739.

(13). R. Burn: Justice of the peace and parish officer. 2 vols. London: A. Millar, 1764, vol. 2, p. 254.

(14). SCRO: QS 2/1/16 Midsummer 1743.

(15). SCRO: QS 2/1/20 Michaelmas 1759.

(16). 4 & 5 Will c.24 and 3 Geo II c. 25.

(17). SCRO: QS 2/1/2, p. 452, for instance, when no issues were estreated as to the jurors of the Hundred of Godley, it 'not being usual for a jury to attend at Croydon being so far distant and remote'.

(18). The office of the clerk... London: H. Twyford, 1682, pp. 102-3. 'The Sheriff shall impannel petit constables if there be not others sufficient to serve ...'.

(19). R. Burn: Justice of the peace. Vol. 2, p. 252.

(20). A.J.B. Defauconpret: Londres en mil-huit cent vingt trois ou recueil de lettres sur la politique, la littérature et les moeurs dans le cours de l'année 1823. Paris: Gide, 1824. pp. 91-92. The unfairness of the system did not escape eighteenth century commentators either. An anonymous writer suggested as a reform that a petty jury of 23 jurors, equipped with sets of black and white balls should be allowed ten minutes to make up their minds. See A dissertation on the constitution and effects of a petty jury. Dublin: [s.n.], 1737.

(21). The office of the clerk..., p. 98.

(22). H. Jenkinson & D. Powell (eds.): op. cit. Vol. 6, p. 90.

(23). Ibid.: p. xi.

(24). SCRO: QS 2/6/Xmas 1738/9/54.

(25). Cf. footnote 18.

(26). SCRO: QS 2/1/5 p. 141.

(27). SCRO: QS 2/1/16 Midsummer and Michaelmas 1743.

(28). SCRO: QS 2/1/18 Michaelmas 170, p. 104.

(29). SCRO: QS 2/1/22 Midsummer 1769, pp. 304-305. Further orders appear on pp. 492, 532, 572.

(30). 3 Geo II c. 25. In Midsummer 1730, the Surrey bench ordered that the Sheriff's officers be reminded of their duty to return householders 'of sufficient estate' as jurors. See also the Gentleman's Magazine, January 1732, for a discussion of the legislation.

(31). J.M. Beattie: 'Crime and the courts in Surrey, 1736-1753', in J.S. Cockburn (ed.): Crime in England, 1550-1800, p. 165.

(32). The office of the clerk..., p. 116 et seq. Certain manuals were devoted exclusively to helping jurors understand the significance of the charge and to carrying out their duties satisfactorily. See for instance J. Astry: A general charge to all grand juries. London: W. Turner and T. Emery, 1703.

(33). BL(M): Add Mss 3350.f.17 et seq. Circuit charge, 1722.

(34). See Appendix I below. GMR: LM 1066/1-10.

(35). Indeed to contemporaries the distinction between charges and sermons was not clearly understood. A list of Surrey sermons published in the eighteenth century shows that they could be preached on non-religious occasions as well as in church. BL(M): Add Mss 11572.

(36). By law this had to be done in the morning between 9 and 12 (25 Chas II c.2).

(37). SCRO: QS 2/4/1 et seq.

(38). 5 Eliz c. 1; 1 Geo I c.5.; 9 Geo I c.22.

(39). SCRO QS 2/1/18 Epiphany 1754, p. 466.

(40). London Evening Post, 1908, 2-5 February 1740.

(41). D. Philips: Crime and authority in Victorian England: the Black Country, 1835-1860. London: Croom Helm, 1977, p. 98.

(42). Ex inf. Douglas Hay.

(43). J.M. Beattie: 'Crime and the courts in Surrey, 1736-1753', p. 161.

(44). J.S. Cockburn: A history of English assizes, 1558-1714, p. 90.

(45). Ibid.: p. 97. A similar conclusion was reached by the Royal Commission on Assizes and Quarter Sessions, 1966-69. Cf. Report, Cmnd 4153. London: HMSO, 1969, p. 19.

(46). SCRO: QS 2/6/Easter 1737, 45.

(47). SCRO: QS 3/5/8 Michaelmas 1758, indictment 18.

(48). SCRO: QS 3/5/8/ Epiphany 1759, indictments 5,7 and Epiphany adjournment indictment 41.

(49). J.M. Beattie: 'Crime and the courts in Surrey, 1736-1753', p. 163.

(50). SCRO: QS 3/5/6-8/ Process books. For details about the data used here, see appendix II below.

(51). Where the defendant failed to appear, his securities were then called.

(52). The office of the clerk..., p. 150.

(53). J.H. Baker: 'Criminal courts and procedure at common law, 1550-1800', in J.S. Cockburn (ed.) Crime in England, p. 34.

(54). The 'peine forte et dure' is further discussed in chapter 6 below.

(55). This change was widely reported in the press of the time. J.M. Beattie: 'Crime and the courts ... ', p. 174 mentions articles in the Gentleman's Magazine and in the London Evening Post. Other reports include that in the Craftsman, 648. There is no doubt that the change was seen to be an important one at the time.

(56). R. Burn: Justice of the peace. Vol. 3, p. 278.

(57). J.H. Baker: op. cit., p. 38.

(58). R. Burn: op. cit.. Vol. 3, p. 278.

(59). SCRO: QS 2/6/Epiphany 1732/3, 60.

(60). See in particular J.S. Cockburn: 'Early-modern assize records as historical evidence,' Journal of the Society of Archivists 5 (1974-1977), pp. 215-231.

(61). See J.M. Beattie: 'Towards a study of crime in 18th century England: a note on indictments,' in P. Fritz and D. Williams (eds.): The triumph of culture: 18th century perspectives. Toronto: A.M. Hakkert, 1972, pp. 299-314, and D. Hay: 'War, dearth and theft in the eighteenth century.' Past & Present 95 (May 1982), pp. 117-160.

(62). J.M. Beattie: 'Towards a study of crime...', p. 314.

(63). J.M. Beattie: 'Crime and the courts...', p. 161.

(64). D. Philips: op. cit., pp. 180-195.

(65). D. Hay: 'War, dearth and theft ...', p. 159.

(66). J.M. Beattie: 'Crime and the courts ...', p. 184.

(67). P.B. Munsche: Gentlemen and poachers: the English game laws, 1671-1831. Cambridge: Cambridge University Press, 1981, p. 106.

(68). Ibid.: p. 111.

(69). GMR: 173/3/21

(70). J.M. Beattie: 'Crime and the courts ...', p. 184.

(71). SCRO: QS 2/1/14 Epiphany 1731/2.

(72). SCRO: QS 2/1/16 Midsummer 1740.

(73). C. Hill: Reformation to industrial revolution, p. 222. A discussion of the importance of committees in Middlesex appears in E.G. Dowdell: A hundred years of quarter sessions: the government of Middlesex from 1660 to 1760. Cambridge: Cambridge University Press, 1932, p. 13.

(74). SCRO: QS 2/1/20 pp. 49-56.

REFERENCES TO CHAPTER FOUR

(1). J.V. Beckett: Local taxation: national legislation and the problem of enforcement. London: Bedford Square Press for the Standing Conference for Local History, 1980, pp. 9-16. The county was also indirectly responsible for the collection of central government impositions, the land tax, the window tax and the tax on pleasure carriages being instances of this. See S. Dowell: A history of taxation and taxes in England from the earliest times to the present day. 2nd ed. London: Longmans, Green, 1888.

(2). Gentleman's Magazine, December 1744.

(3). E. Cannan: The history of local rates in England. London: Longmans, Green, 1896, p. 88.

(4). 17 Geo II c.3.

(5). Gentleman's Magazine, October 1751.

(6). It is difficult to establish how random the survivals of such account books were, but it is fair to assume that the better run parishes were more careful, which would bias this sample.

(7). C.J. Marshall: 'The rate book of the parish of Cheam from 1730 to 1753'. Surrey Archaeological Collections 47 (1941), p. 74.

(8). SCRO: P2/3/4,5. Volume four ends in 1739, which explains the lacuna for that year. Volume five ends in 1758. Highway rates are specifically mentioned in January 1749, otherwise the rate is a 'poor' rate.

(9). Evidence for this comes from the account books themselves. The relatively large number of signing justices at each audit makes it likely that the book was taken to Petty Sessions. In Chertsey, three or four justices' signatures were common. C.J. Marshall notes that for Cheam the accounts were regularly taken to Croydon.

(10). In the first ten years of the reign, an average of two rate appeals per year are recorded in the court Order Books.

(11). 12 Geo II c. 29.

(12). In addition to the difficulties described in the text below, the county had to cope with complaints from several Middlesex parishes about the levying and application of vagrants' rates and constables charges and accounts. Cf. Reports from Committees of the House of Commons, printed by order of the House, which are not inserted in the House of

Commons Journals, 1803. Report for 16 March 1738.

(13). CJ vol 23, pp. 217, 252, 289-91, 303, 311.

(14). 25 Geo II c. 29.

(15). There are two series of petitions, the first one dates from 1743 and the second one of 1747/8. The bill was passed on the third attempt, as two earlier bills failed in 1745 and 1749/50.

(16). Extracted from the Surrey Quarter Sessions Order Books, QS 2/1/13-20.

(17). SCRO: QS 2/1/13, Michaelmas 1728.

(18). SCRO: QS 2/1/14, Midsummer 1732.

(19). SCRO: QS 2/1/17, Easter 1745.

(20). I. Darlington (ed.): St George's Fields. (Survey of London 25). London: London County Council, 1955, pp. 124-125.

(21). SCRO: QS 2/1/17, Easter 1745.

(22). SCRO: QS 2/1/13, Epiphany 1727/8.

(23). SCRO: QS 2/1/13, Midsummer 1728, Midsummer 1729, Midsummer 1730 &c.

(24). The proximity of these large prisons nevertheless had some impact on the county, as the justices had certain specific duties imposed on them by act of parliament. The county was not expected to support these institutions financially apart from the general rate which was expected of all counties.

(25). Evidence of its use as a prison survives for the period 1202-1505. Cf. VCH 3, p. 553.

(26). I. Darlington: op. cit., p. 7.

(27). The title deeds to the property provide most of the evidence for this part of the history of the prison.

(28). SCRO: QS 2/1/2, p. 264, renumbered 270, for evidence of the state of disrepair of the premises. O. Manning: The history and antiquities of the county of Surrey ..., continued to the present day by W. Bray. Vol. 3. London: J. White, 1814, p. xiii, noted that the agreement dated from 1696. In fact this formal agreement with the keeper of the Marshalsea simply consolidated an existing, probably informal, arrangement.

(29). D.L. Howard: The English prisons: their past and their future. London: Methuen, 1960, p. 7 estimates that while most counties were responsible 'for the prisons in their capital towns, [...] almost as many [...] were in private hands' at the time.

(30). SCRO: QS 2/1/13, Easter 1728.

(31). SCRO: QS 2/1/18, Epiphany 1750/1.

(32). SCRO: QS 2/1/13, Easter 1729.

(33). SCRO: QS 2/1/16, Midsummer 1741.

(34). SCRO: QS 2/1/18, Midsummer 1751.

(35). SCRO: QS 2/1/13, Easter 1729.

(36). SCRO: QS 2/1/13, Michaelmas 1728, Easter 1729 &c.

(37). SCRO: QS 2/1/16, Easter 1741.

(38). SCRO: QS 2/1/18, Midsummer 1752.

(39). S. McConville: A history of English prison administration. London: Routledge and Kegan Paul, 1981, p. 62.

(40). SCRO: QS 2/1/18, Epiphany 1750/1.

(41). SCRO: QS 2/1/18, Easter 1751. At the same time as setting down the terms of the surgeon's salary, the court settled a bill of thirty five pounds due to him.

(42). See S. Webb & B. Webb: English prisons under local government. New ed. London: Cass, 1963, p. 5, for the fees collected by the keepers at Kingston and Southwark.

(43). J. Howard: The state of the prisons. Everyman ed. London: Dent, 1929, pp. 195-197.

(44). 7 Jas I c. 4.

(45). S. Webb & B. Webb: English prisons, p. 14.

(46). 6 Geo I c. 19.

(47). SCRO: QS 2/1/18, Midsummer 1728, QS 2/1/18, Epiphany 1752. Further stock was purchased in 1756: QS 2/1/19, Midsummer 1756.

(48). O. Manning: op. cit. Appendix.

(49). See for instance, SCRO: QS 2/1/14, Easter 1731,

when a prisoner committed for petty larceny was transferred from the House of Correction at Southwark to the County Gaol.

(50). See for instance, SCRO: QS 2/1/18, Michaelmas 1751. The site most commonly proposed was Kingston (QS 2/1/18, Epiphany 1752), although Reigate is also mentioned as a possibility in 1760 (QS 2/1/18, Easter 1760).

(51). SCRO: QS 2/1/13, Epiphany 1730/1.

(52). SCRO: QS 2/1/14, Midsummer 1731, for instance, when the carpenters were instructed to repair the wainscotting of both the male and female wards.

(53). I. Darlington: op. cit., p. 20.

(54). J.K. Green: Sidelights on Guildford history, II. [Reprinted from the Surrey Times], 1953, p. 11. A second, new house of correction was built in 1767 at the back of the site of the old one.

(55). By the mid 1730s, and to the end of the reign, the Keepers received twenty-five pounds per annum. SCRO: QS 2/1/15, Easter 1738, and QS 2/1/19, Midsummer 1756.

(56). SCRO: QS 2/1/13, Midsummer 1728.

(57). Another problem case, that of the debtor whose release is opposed by his or her creditors is also documented in the Surrey records. See SCRO: QS 2/1/18, Michaelmas 1750.

(58). This was in response to specific legislation: 2 Geo II c.22, 10 Geo II c.26, 11 Geo II c.9, 11 Geo II c. 20, 21 Geo II c.31, 28 Geo II c.13, 29 Geo II c.18, for instance.

(59). SCRO: QS 2/6/Michaelmas 1729/75 lists debtors returning from Lisbon, Malabar, Amsterdam, Madeira, Calais, Worms, New England, Gibraltar and Barbados.

(60). SCRO: QS 2/1/13, Michaelmas 1728 and Epiphany 1728/9. See also QS 2/6/Easter 1735/92 for a general 'remonstrance'. Debtors were 'good copy' for contemporary news editors. For an example of a disturbance among debtors in the Marshalsea prison, see Daily Journal, 4233, 12 August 1734. See also the Craftsman, 640, 14 October 1738, for an account of the release of several debtors.

(61). SCRO: QS 2/1/18, Epiphany 1749/50.

(62). SCRO: QS 2/1/13, Easter 1728.

(63). This table was compiled from the lists of indictments entered in the minute books for the first three years of the reign. SCRO: QS 2/2/4. See Appendix II for a fuller explanation.

(64). See SCRO: QS 2/1/14, Easter 1735, for the whipping in Carshalton of a prisoner held in the county gaol.

(65). SCRO: QS 2/6/Xmas 1732/3/60 and QS 2/6/Xmas 1746/7/35.

(66). SCRO: QS 2/2/Minute book for 1759.

(67). R. Burn: Justice of the peace, p. 383.

(68). SCRO: QS 2/1/18, Easter 1750.

(69). SCRO: QS 2/1/17, Midsummer 1748.

(70). SCRO: QS 2/1/17, Easter 1748.

(71). London Journal, 823, 12 April 1735.

(72). London Evening Post, 1154, 10-12 April 1735.

(73). SCRO: QS 2/1/13, Midsummer 1728.

(74). SCRO: QS 2/1/14, Easter 1731, or Easter 1735, for instance.

(75). E. Moir: Local Government in Gloucestershire, 1775-1800. Bristol: Bristol and Gloucestershire Archeological Society, [1969], records cases of fines of one hundred pounds on small villages. Although this study covers a later period, the discrepancy between the Surrey and the Gloucestershire practices is startling. Fines for neglect in Surrey shires in 1760 were around half a crown, or at most five pounds.

(76). SCRO: QS 2/1/14, Easter 1731.

(77). SCRO: QS 2/1/15, Epiphany 1738/9.

(78). R. Burn: The history of the poor laws. London: A. Millar, 1764, p. 236.

(79). SCRO: QS 2/1/18, Michaelmas 1750, for instance.

(80). SCRO: QS 2/1/20, Easter 1759.

(81). The following list is extracted from W. Albert: The turnpike road system in England, 1663-1840. Cambridge: Cambridge University Press, 1972. Appendix B., pp. 204-205.

1696/7:		Reigate-Crawley	8 & 9 Wil III c.15
1718	:	Southwark-Kingston-Sutton	4 Geo I c.4
1718	:	Southwark-Lewisham &c	4 Geo I c.5
1749	:	Southwark-Rotherhithe	22 Geo II c.31
1749	:	Kingston-Petersfield	22 Geo II c.35
1751	:	Lewisham-Southwark	24 Geo II c.58
1755	:	Sutton-Reigate	28 Geo II c.28
1755	:	Horsham-Ebbisham	28 Geo II c.45
1755	:	Epsom-Ewell-Kingston	28 Geo II c.57
1757	:	Milford-Peckworth &c	30 Geo II c.50
1757	:	Stoke-Guildford-Arundel	30 Geo II c.60
1758	:	Leatherhead-Stoke nr Guildford	31 Geo II c.77
1758	:	Guildford-Farnham	31 Geo II c.78

(82). W. Albert: op. cit., p. 41.

(83). E. Pawson: Transport and Economy: the turnpike roads of eighteenth century Britain. London: Academic Press, 1977, p. 67.

(84). Gentleman's Magazine September 1753, p. 432.

(85). E. Pawson: op. cit., p. 88. 'Turnpike trusts, too, were not divorced from the existing order, despite the Webbs' assertion to the contrary (1922:107). They developed from the administrative and legal structure of the county, not becoming independent bodies until the middle of the eighteenth century.'

(86). SCRO: QS 2/1/13, Easter 1729.

(87). Highway diversions became so numerous in the nineteenth century that they formed a separate series among the records of the court. Technically, the document was 'writ ad quod damnum'.

(88). SCRO: QS 2/1/17, Easter 1747; QS 2/1/19, Epiphany 1758; QS2/1/19, Michaelmas 1758; QS 2/1/19, Epiphany 1759; QS 2/1/20, Epiphany 1760.

(89). SCRO: QS 2/1/17, Michaelmas 1758.

(90). Gentleman's Magazine: for Walton, see supplement to 1750, and March 1754; for Westminster, March 1754; for Hampton Court, December 1753; for Guildford, January 1754; and for Fulham-Putney, July 1751.

(91). T. Ruddock: Arch bridges and their builders, 1735-1835. Cambridge: Cambridge University Press, 1979, p. 3.

(92). R. Burn: Justice of the peace, p. 185.

(93). 20 Geo II c.22; 23 Geo II c.37.

(94). O. Manning: op. cit. Vol. 3, Appendix, p. xxxii. Another Surrey Bridge, that at Kew, was built in 1758-9.

(95). T. Ruddock: op. cit., p. 7.

(96). Ibid.: p. 63.

(97). PRO(K): WORK 6/28. At the first meeting of the commissioners held on 22 June 1736, the names of the following Surrey Justices are recorded in the list of attendance: Thomas Lord Onslow, Arthur Onslow, Charles Lord Baltimore, Sir William Clayton, Sir William Jolliffe, Colonel Richard Onslow, Robert Hucks, John Evelyn, Samuel Kent, and the Clerk of the Peace, Thomas Corbett. At later meetings, other Surrey Justices made an appearance, notably Justices Scawen, Oglethorpe and Clayton Jr.

(98). See chapter one, footnote 65, for details of a formal meeting of interested parties.

(99). T. Ruddock: op. cit., p. 26.

(100). References to the maintenance of various bridges mentioned here and not otherwise acknowledged are extracted from O. Manning: op. cit. Vol. 3, Appendix.

(101). The 1531 Statute of Bridges empowered justices to levy a county rate for the repair and maintenance of county bridges. See S. Webb & B. Webb: The story of the King's highway. New ed. London: Cass, 1963, p. 89.

(102). SCRO: QS 2/1/14, Midsummer 1733.

(103). SCRO: QS 2/1/16, Epiphany 1743/4.

(104). SCRO: QS 2/1/17, Midsummer 1746.

(105). SCRO: QS 2/1/14, Easter 1734.

(106). SCRO: QS 2/1/14, Michaelmas 1729. See also CJ vol 22, 27 February 1733, for a petition for help.

(107). SCRO: QS 2/1/16, Epiphany 1742/3.

(108). W.W. Blackstock: The historical literature of sea and fire insurance in Great Britain, 1547-1810. Manchester: H. Rawson, 1910.

(109). SCRO: QS 2/6/Xmas 1740/1/23-26(b).

(110). SCRO: QS 2/1/18, Midsummer 1750.

(111). SCRO: QS 2/1/18, Midsummer 1751.

(112). 25 Hen VIII c.9 amended by 33 Hen VIII c.4.

(113). 5 Eliz c.12, amended by 13 Eliz c.25. For an example of the granting of such licences, see SCRO: QS 2/2/4 Midsummer sessions 1727, Wednesday 4 pm adjournment.

(114). 2 Geo II c.15. SCRO: QS 2/1/13, Epiphany 1727/8 and Epiphany 1729/30; QS 2/1/14, Epiphany 1732/3.

(115). SCRO: QS 2/1/17, Epiphany 1746/7, and Midsummer 1748; QS 2/1/18, Epiphany and Easter 1743.

(116). 9 Anne c.25. SCRO: QS 2/1/16, Michaelmas 1743, Easter and Michaelmas 1744; QS 2/1/17, Michaelmas 1745, Epiphany 1745/6, Easter and Michaelmas 1746, Epiphany 1746/7 and Easter 1747.

(117). R.W. Malcolmson: Popular recreations in English society, 1700-1850. Cambridge: Cambridge University Press, 1973, p. 103.

(118). SCRO: QS 2/1/16, Midsummer 1740; QS 2/1/18, Midsummer and Michaelmas 1749; QS 2/1/19, Midsummer 1755.

(119). R.W. Malcolmson: op. cit., p. 118.

(120). SCRO: QS 2/1/18, Michaelmas 1752.

(121). For orders exhorting parishioners to keep watch in these places, see SCRO: QS 2/1/14, Midsummer 1734 and Michaelmas 1735; QS 2/1/15, Michaelmas 1736 and 1739; QS 2/1/16, Epiphany 1741/2; QS 2/1/17, Michaelmas 1747.

(122). For Kent and Gloucestershire, see E.L. Waterman: 'Some new evidence on wage assessments in the eighteenth century,' English Historical Review 43 (1928), pp. 398-408; for Herefordshire, R.K. Kelsall: 'A century of wage assessments in Herefordshire' English Historical Review 57 (1942), pp. 115-9; and for Nottinghamshire, J.D. Chambers: op. cit., p. 69, for an assessment in 1723.

(123). E.G. Dowdell: op. cit., p. 149. W.E. Minchinton: Wage regulation in pre-industrial England. Newton Abbot: David and Charles, 1972, only cites two references to wage assessments for Surrey, one for 1631 and one for 1700, pp. 216 and 228.

(124). A.W. Coats: 'Changing attitudes to labour in the mid-eighteenth century.' Economic History Review (2nd series) 11 (1958-1959), p. 35.

(125). Mid-sentury opinion did consider it impractical. Both R. Burn (cf. E.G. Dowdell: op. cit., p. 149) and H. Fielding suggested as much (cf. E. Lipson: The economic history of England. Vol. 3: The age of mercantilism. 6th ed. London: A. & C. Black, 1961, p. 264).

(126). SCRO: QS 2/2/Michaelmas 1727, indictment 39, for instance.

(127). SCRO: QS 2/1/17 Michaelmas 1747.

(128). SCRO: QS 3/5/Midsummer 1727, 84.

(129). E. Lipson: op. cit., p. 291, suggests that there was a conflict between parliamentary and local opinion over this issue: 'While parliamentary opinion thus moved steadily in the direction of laissez faire, the local authorities remained wedded to ancient customs, franchises and liberties (...). Throughout the eighteenth century, "vexatious indictments" continued to be brought against those who took up a trade to which they had not served an apprenticeship.' He does not seem to have considered the possibility that these indictments may have been brought before the courts by other workers or small employers rather than punctilious local authorities.

(130). S. Webb & B. Webb: 'The Assize of Bread,' The Economic Journal 14 (1904), pp. 196-218. For a newspaper report recording the publication of the London Assize, see Daily Journal 4284. In Nottinghamshire, the Assize of Bread was published in the local newspaper. Cf. J.D. Chambers: op. cit., p. 285.

(131). W. Stevenson: op. cit., p. 546.

(132). PRO(C): ASSI/35/175/8.

(133). GMR: LM 1331/77.

(134). D. Defoe A tour through England and Wales ... Vol. 1, p. 157.

(135). F. Turner: Egham, p. 229.

REFERENCES TO CHAPTER FIVE

(1). It may be worth quoting the 1801 census returns of the London parishes here, simply to give a very rough idea of the size of the population involved:

Christchurch	:	9,933
St George	:	22,293
St John Horsleydown	:	8,892
St Olave	:	7,846
St Saviour	:	15,596
St Thomas	:	2,078

Early nineteenth century parish registers, which from 1812 noted the father's occupation, provide further evidence of the relative 'rusticity' of the area. See also J. Summerson: Georgian London. Harmondsworth: Penguin, 1962, pp. 19, 21, 23 for comments on the development of the southern London suburbs, and John Rocque's 1748 map of the area.

(2). J.D. Chambers: op. cit., p. 284.

(3). Many contemporary newspapers described the distress of the poor in the course of the winter of 1740. See for instance London Evening Post, 1899, 12-15 Jan 1740; 1903, 22-24 Jan 1740; 1908, 2-5 Feb 1740.

(4). C. Hill: Reformation to industrial revolution, p. 254.

(5). G.E. Mingay: 'The agricultural depression, 1730-1750,' Economic History Review (2nd series) 8 (1955-1956), p. 338. C. Hill: Reformation, p. 253 mentions the fact that the price of beer remained constant in London between 1722 and 1760. It is not my intention to study all the important factors such as rents, which must be taken into account in a study of the standard of living of a society. Nor shall I be looking at specific issues such as the consequences of the cattle plague of 1745-1758 on the price of meat.

(6). London Evening Post, 1108, 24-26 December 1734.

(7). Fog's Weekly Journal, 20, 15 October 1737.

(8). The dissolution only exacerbated a problem which already existed. A number of statutes on poor relief and vagrancy antedate the Tudors: 23 Edw III c.7 (1349), 7 Rich II c.5 (1382), 12 Rich II c.7 (1388) 12 Rich II c.8. See J.R. Tanner, op. cit., pp. 469-470.

(9). For an example of the importance ascribed to the 1601 act (43 Eliz c.2), see (ironically) F. Engels: The condition of the working class in England. Moscow: Progress Publishers, 1977, p. 283: 'The Old Poor Law which rested upon the Act of 1601 (the 43rd of Elizabeth), naively

started from the notion that it is the duty of the parish to provide for the maintenance of the poor. Whoever had no work received relief, and the poor man regarded the parish as pledged to protect him from starvation. He demanded his weekly relief as his right, not as a favour, and this became, at last, too much for the bourgeoisie.'

(10). 39 Eliz c.3

(11). 22 Hen VIII c.12

(12). See J.A. Garraty: Unemployment in history: economic thought and public policy. New York: Harper and Row, 1978, especially chapter 3, 'The struggle for full employment'.

(13). 27 Hen VIII c.25.

(14). 5 & 6 Edw VI c.2

(15). 5 Eliz c.3

(16). D.G. Sutton: 'An edition of the York House Books, 1587-9'. Unpublished MA thesis, Sheffield University, 1976, p. 46.

(17). 18 Eliz c.3.

(18). 13 & 14 Chas II c.12.

(19). 3 & 4 Will & Mary c.11. J.S. Taylor: 'The impact of pauper settlement, 1691-1834,' Past & Present, 73, November 1976, p. 50.

(20). 8 & 9 Will c.30.

(21). D. Marshall: 'The old poor law, 1662-1795'. Economic History Review, 8 (1937-1938), pp. 38-48.

(22). Gentleman's Magazine, May 1757.

(23). This section is based on the following works: (i) Richard Burn: Poor laws. This study was found flimsy by J.S. Taylor (op. cit. p. 45) who preferred the work of Michael Nolan: A treatise of the laws for the relief and settlement of the poor. 4th ed. London: 1825; (ii) various projects described by Burn in his fourth chapter, notably that of Cary (1700), Hay (1735), Alcock (1752), the Earl of Hillsborough (1753), Sir Richard Lloyd (1753), Henry Fielding (1753) and Cooper (1763); (iii) on a number of anonymous works including:
Proposals for redressing some grievances which greatly affect the whole nation. London: 1740; A new scheme for reducing the laws relating to the poor into one act of

parliament, and for the better providing the impotent poor with necessities, the industries with work and for the correction of the idle poor. 2nd ed. London: 1737; A proposal for the enjoyment of the poor and the amendment of their morals. [London]: 1737. Populousness with Oeconomy, the wealth and strength of a kingdom. London: 1759; (iv) Robert Foley: Laws relating to the poor from the forty-third of Queen Elizabeth to the third of King George II. London: 1739. Josiah Tucker: The manifold causes of the increase of the poor distinctly set forth. Gloucester: 1760; (v) The various relevant entries in Justices manuals, especially Nelson's op. cit., and Burn's Justice of the peace, and Giles Jacob's dictionary, op. cit.

(24). The hundreds of Colneis and Carlford in Suffolk, for instance, were incorporated by a statute of 29 Geo II c.79.

(25). M. Foucault: Histoire de la folie à l'âge classique. Paris: Gallimard, 1972, pp. 65-67.

(26). Henry Fielding: Tom Jones. Harmondsworth: Penguin, 1968, p. 561.

(27). It is interesting to speculate on the importance of other European systems of relief, notably the relatively advanced development of institutionalisation of relief in France at the beginning of our period. In this context, it may be worth noting Jean-Pierre Gutton's comment in his book, L'état et la mendacité dans la première moitié du XVIIIe siècle: Auvergne, Beaujolais, Forez, Lyonnais. [Lyon]: Centre d'Etudes Foreziennes, 1973, p. 30: 'La politique francaise d'assistance publique avait presenté au XVIIIe siècle bien des traits communs avec celles des pays étrangers. (...) Aussi bien, relevons, au moins sommairement, que la première loi sur l'établissement des workhouses en Grande-Bretange est de 1722. (...) Sans doute, aucun document à notre connaissance, ne permet de conclure à une influence directe de l'example britannique.

(28). Michael Ignatieff's review of Andrew T. Scull: Museums of madness: the social organisation of insanity in nineteenth-century England, in Historical Journal 24 (1981), pp. 253-254.

(29). W. Nelson: op. cit., p. 533.

(30). Populousness with oeconomy, p. 13.

(31). J.D. Chambers: op. cit., p. 271.

(32). D. Jarrett: England in the age of Hogarth. St Albans: Paladin, 1976, p. 98, who cites Joseph Ackland's Plan for rendring the poor independent of public contributions, 1786.

(33). It may be worth noting, however, that in the 1730's a bill for the relief of the poor by voluntary charity went through the Commons unopposed, and that Hay's comment was 'if all the present laws relating to the poor were abolished, and such a law were to subsist alone, it would be adequate provision; and that in no long space of time a rate for the poor would be as unnecessary as it was before the reformation. For there is that inexhaustible fund of benevolence in the hearts of men (and especially of Englishmen) that would never leave their fellow-creatures destitute, were charitable persons morally sure that their benefactions would be wisely and honsetly applied. W. Hay: Works (incl. Remarks on the laws relating to the poor with proposals for their better relief and employment), 1794, p. 111.

(34). Proposals for redressing grievances which greatly affect the whole nation, with a seasonable warning to our beautiful young ladies against fortune hunters; and a remedy proposed in favour of the ladies. London: J. Johnson, 1740, p. 20.

(35). J.S. Taylor: 'The impact of pauper settlement, 1691-1834'. Past & Present 73 (November 1976), p. 63.

(36). SCRO: 2375/2/1 p. 46. Bavins were bundles of brushwood.

(37). M. Blaug: 'The myth of the old poor law and the making of the new,' Journal of Economic History 23 (1963), p. 176.

(38). CJ, vol. 26, p. 783.

(39). J. Entick: A new and accurate history and survey of London, Westminster, Southwark and places adjacent ... 4 vols. London: E. and C. Dilly, 1766. For Lambeth, see vol. 4, p. 395. It is difficult to establish when the various workhouses were built. The appendix to the Second report from the parliamentary committee appointed to review and consider the several laws which concern the relief and settlement of the poor; and the law relating to vagrants; and also the state of the several houses of correction, 1775 (Lambert 3228, vol 31) is vague about the dates of foundation, although it is clear that by that date most of the Southwark area parishes had some building for the purpose, even if it was, as in St Thomas, a number of rented houses. In the rural parishes evidence is more difficult to come by. Esher parish had its workhouse built in 1741 (SCRO:

P47/2/536-548), and Wimbledon had its workhouse by 1761 (SCRO: P5/5/98/122). Since the uses to which these workhouses were put did not differ markedly from those of the almshouses of a parish such as Leatherhead, say, (SCRO: P61/1/1,2) one may wonder whether the distinction between the two types of institutions, in the rural parishes at least, is merely one of terminology. Chertsey parish called its building 'House of Maintenance' (built 1747) (SCRO: P2/3/5).

(40). Manacles and similar implements were, however, often to be found in eighteenth century workhouses.

(41). SCRO: P5/5/98/2.

(42). E.g. SCRO: QS 2/1/11 Mich 1730, QS 2/1/16 Mich 1741.

(43). That it was granted as a special favour may be adduced from the number of indictments brought before Quarter Sessions for building houses without the statutory four acres.

(44). R. Burn (Poor laws, p. 93) points out a discrepancy between 39 Eliz c.3 and 43 Eliz c.2 in respect of the relationships to which this rule could apply. In the former act, the grandparents were not specifically mentioned.

(45). SCRO: QS 2/1/13 Ep 1729/30; QS 2/1/15 Mich 1736, Mids 1737, Mids 1738, Ep 1739/40; QS 2/1/16 Mids 1742, Mich 1742, Mids 1743; QS 2/1/17 Mids 1746; QS 2/1/18 Mids 1750.

(46). SCRO: QS 2/1/16 Mich 1742; QS 2/1/17 Ep 1748/9, Mids 1749; QS 2/1/19 Mids 1755, Mich 1755.

(47). E.R. Pike: Human documents of Adam Smith's time. London: Allen and Unwin, 1974, p. 123, quotes the case of Mrs Strudwick, born in Witley, who died in 1794, and was frightened of being forced to claim relief. From 1722, poor people who refused the workhouse test could be denied relief, a condition which was reintroduced in nineteenth century legislation. The trauma of the workhouse survives to this day: see for instance The Times, December 1979, p. 3: 'Workhouses of 1979 "a national disgrace"'.

(48). A proposal for the employment of the poor and the ammendment of their morals. [S.l.]: [s.n.], [1737?].

(49). Populousness with oeconomy p. 14.

(50). J. Entick: op. cit. Vol. 3, p. 386.

(51). Ibid.: vol. 4, pp. 374-395. Even in London, though, the numbers catered for were very small:

Parish	Charity Schools		Free Grammar Schools		Others	
	Boys	Girls	Boys	Girls	Boys	Girls
St Olave	40	60				
Bermondsey	50	20	50			
St Thomas	50					
St George	50					
St Saviour			390			50
Christ Church					30	20
Lambeth					--	20 --

(52). F.M. Cowe (ed.): op. cit., p. 28, entry 115.

(53). 18 Eliz c.3 amended by 7 Jas 1 c.4.

(54). L. Stone: The family, sex and marriage in England 1500-1800. Abridged ed. Harmondsworth: Penguin, 1979, p. 400.

(55). SCRO: QS 2/1/16 Mids 1742. The case of illegitimate births in well-to-do families has not been systematically investigated by historians of the eighteenth century. It may be that money made dissimulation easier: witness for instance the strategem used by Tom Jones' mother (Tom Jones, Book 18, Chapter VII). It may be worth noting also advertisements, such as the one published in the Craftsman of 28 September 1734, which recommended an establishment for 'gentlewomen that chuse to lye-in in a house retir'd from company and noise'.

(56). 13 & 14 Chas II c.14 s.19.

(57). 6 Geo II c.31.

(58). U.R.Q. Henriques: 'Bastardy and the new poor law.' Past & Present 37 (July 1967), p. 105.

(59). D. Jarrett: op. cit., p. 65.

(60). SCRO: QS 2/1/14 Ep 1733/4, Easter 1734 (2 cases); QS 2/1/15 Ea 1737, Mich 1737, Ep 1739/40, Ea 1740; QS 2/1/16 Mich 1740, Mids 1741, Mids 1742, Mich 1743 (2 cases), Mids 1744.

(61). R. Burn: Justice of the peace. Vol. 1, p. 159. See also W. Nelson: op. cit., p. 79.

(62). SCRO: QS 2/1/17 Mich 1746; QS 2/1/18 Ep 1752, Ea adj 1752, Mich 1752, Ea 1753, Mids adj 1753; QS 2/1/19 Ea 1755.

(63). F.M. Cowe (ed): op. cit., p. 31.

(64). M.D. George: op. cit., p. 215.

(65). For Middlesex, see E.G. Dowdell: op. cit., p. 54.

(66). F.M. Cowe (ed): op. cit., p. 29 (entry 123). Reading and writing were not necessarily taught as related skills: many people who could read could not write. Cf. R.S. Scholfield: 'The measurement of literacy in pre-industrial England' in J. Goody (ed): Literacy in traditional societies. Cambridge: Cambridge University Press, 1975, p. 323.

(67). M.D. George: London life in the eighteenth century. 2nd ed. Harmondsworth: Penguin, 1965, p. 217.

(68). CJ vol 31, p. 249.

(69). F.M. Cowe (ed): op. cit., p. 9.

(70). SCRO: LA 5/5/52,52.

(71). F.M. Cowe (ed): op. cit., p. 16 (entry 62).

(72). J.D. Chambers: op. cit., p. 262.

(73). See Chapter 4 for figures for Chertsey parish.

(74). William Hay thought so in 1735: 'And it is notorious, that half the business of every Quarter Sessions consists in deciding appeals on orders of removal'. W. Hay: op. cit., p. 121.

(75). Quoted by J.D. Chambers: op. cit., p. 264.

(76). SCRO: QS 2/1/14-19.

(77). J.S.Taylor: op. cit., p. 57.

(78). SCRO: P1/9/6-35; P35/2/39-71; P22/7/1-72; P43/3/35-96; P47/2/273-336; P38/3/204-227; P25/4/195-229; P52/8/15-52.

(79). Two bills were introduced in Parliament at the same time, one for the punishing of rogues and vagabonds, and the other for the better relief and employment of the poor. On the failure of the latter to become law, a further bill, introducing the idea of voluntary charity was then introduced and failed in its turn. W. Hay: op. cit. pp. 109-110.

(80). SCRO: QS 2/1/17 Mids 1748.

(81). SCRO: QS 2/1/20 Mids 1759.

(82). SCRO: QS 2/1/20 Epiphany 1760.

(83). C. Weir: 'The transportation of Nottingham convicts'. History Today. 29 (1979), pp. 756-759.

(84). H. Jenkinson & D. Powell (eds.): op. cit. Vol. 5, p. 95.

(85). E.G. Dowdell: op. cit., p. 73.

(86). J.D. Chambers: op. cit., p. 272.

(87). D. Marshall: English people in the eighteenth century. London: Longmans, 1956, p. 189.

REFERENCES TO CHAPTER SIX

(1). E.G. Dowdell: op. cit., p. 15.

(2). J.D. Chambers: op. cit., p. 276.

(3). Ibid.: pp. 272-3.

(4). E.G. Dowdell: op. cit., p. 16.

(5). The Gentleman's Magazine: April 1737, p. 222.

(6). R. Burn: Poor laws, p. 117.

(7). CJ, vol. 22, p. 487, 1735.

(8). London Evening Post: 12-15 January 1740/1.

(9). SCRO: QS 2/6/Michaelmas 1733.

(10). SCRO: QS 2/6/Epiphany 1735.

(11). SCRO: QS 2/6/Michaelmas 1739.

(12). SCRO: QS 2/6/Epiphany 1742/3.

(13). SCRO: QS 2/6/Epiphany 1749/50.

(14). SCRO: QS 2/6/Epiphany 1753. These letters also prompt some speculation about the role of the Clerk of the Peace in the whole process. There is no doubt that his role was central, in that he was the obvious point of contact when the court was not sitting. But it seems to have been widely believed that he could affect the outcome of a case, and was often asked to intercede. Thus in 1742 his

assistance was sought to stop Justice Selwyn's indictment against Mr Howlett (SCRO: QS 2/6/Midsummer 1742/57).

(15). SCRO: QS/2/2/4. An interesting example of the use of force is given by C.E. Vulliamy: The Onslow family, 1528-1874, with some account of their times. London: Chapman and Hall, 1953, p. 80: in 1769, Richard Onslow summoned a force of constables and 14 pieces of artillery to disperse 500 gypsies and smugglers encamped in a wood near Guildford. In 1741, one of the Middlesex Grand Jury presentments to the King's Bench included a complaint of the presence of 50 soldiers near a polling place, during a parliamentary election (Gentleman's Magazine: June 1741, p. 304).

(16). J.P. Malcolm: Anecdotes of the manners and customs of London during the eighteenth century. London: Longman, Hurst, Rees and Orme, 1810, pp. 101-102.

(17). Under the terms of the act of 5 Eliz c.9, a person convicted of perjury was liable to a fine of twenty pounds and six months in prison, or, in cases where the fine was too large for the person to pay, to the pillory, with both ears nailed. The act of 2 Geo 2 c.25 added transportation as a possibility. Further legislation in the same reign attempted to make the punishment of perjury more severe by stipulating that perjury should not be covered by general pardons (20 Geo 2 c.52), and by simplifying the procedure for the indictment of perjury (23 Geo 2 c.11).

(18). Craftsman: 28 August 1736, 530.

(19). SCRO: QS 2/1/15, Midsummer 1737.

(20). SCRO: QS 2/1/--.

(21). J.G. Rule: 'Social crime in the rural South in the eighteenth and early nineteenth centuries.' Southern History 1 (1979), pp. 135-153. For an instance of reported connivance at smuggling, see the Gentleman's Magazine: April 1743, p. 205.

(22). SCRO: QS 2/6/Epiphany 1745/6.

(23). Gentleman's Magazine: March 1737, p. 168.

(24). Craftsman: 25 September 1736, 534.

(25). E.J. Hobsbawm: Bandits. Harmondsworth: Penguin, 1972, p. 128. This theme was further developed in an article by Hans-Jurgen Lusebrink: 'Images et representations sociales de la criminalité au XVIIIe siécle.' Revue d'Histoire Moderne et Contemporaine 26 (1979), pp. 345-364.

(26). C. Hill Reformation to industrial revolution, p. 279.

(27). Select and impartial accounts of the lives, behaviour and dying words of the most remarkable convicts from the year 1700 ... 1745. It may be noted, in parenthesis, that the 1973 Panther edition of the Newgate Calendar attempts to attract the notice of readers in terms which would not have been unfamiliar to the eighteenth century - the text on the cover reads: 'The blood-soaked pages of the most infamous chronicles of crime'.

(28). F. Turner: Egham, p. 195.

(29). W.E. Morden: op. cit., p. 55.

(30). GMR: LM1066/7. See Appendix One of this thesis.

(31). SCRO: QS 2/6/Easter 1729.

(32). SCRO: QS 2/6/Easter 1734.

(33). SCRO: QS 2/6/Easter 1729.

(34). SCRO: QS 2/1/14, Midsummer 1734.

(35). E.P. Thompson: 'Eighteenth century English society: class struggle without class?' Social History 3 (1978), p. 144.

(36). Ibid.: p. 137.

(37). Ibid.: p. 144.

REFERENCES TO CHAPTER SEVEN

General note: all unacknowledged references which relate to particulars of individuals' lives or careers are drawn from the relevant volume of R. Sedgwick (ed.): The House of Commons, 1715-1754. 2 vols. London: HMSO, 1970.

(1). S. Webb & B. Webb: The parish and the county, pp. 319-347. This is also discussed by E. Moir: The justice of the peace. Harmondsworth: Penguin, 1969, p. 82.

(2). C.E. Vulliamy: op. cit., p. 9.

(3). Historical Manuscripts Commission: Fourteenth Report. Appendix: part 9. London: HMSO, 1895, pp. 458-524.

(4). Ibid.: p. 503.

(5). In addition Onslow was Recorder of Guildford, High Steward of Kingston upon Thames, Bencher of the Inner Temple and Privy Councillor. He was also a member of the Kit-Kat Club. See entry in DNB for further particulars.

(6). Historical Manuscripts Commission: Fourteenth Report, p. 505.

(7). Ibid.: p. 516.

(8). London Journal, 831, 7 June 1735.

(9). Daily Journal, 5504, 16 October 1735.

(10). Craftsman, 692, 17 March 1738/9. There were many other similar mentions of Onslow in the regular press, ranging from reports of the death of his secretary, Mr. Fenton, in 1735, (London Journal, 831, 7 June 1735), to his being a pall bearer to Mrs Winwood in 1740 (London Evening Post, 1920, 1-4 March 1740).

(11). He was a subscriber, for instance, to Rocque's map of Surrey, 1748.

(12). In addition to those titles listed in the DNB, one might add, appropriately, William Hay's Religio philosophi; or, The principles of morality and Christianity, illustrated from a view of the universe and of man's situation in it. London: R. Dodsley, 1753.

(13). C.E. Vulliamy: op. cit., p. 134, notes that, on his retirement, Onslow moved to Great Curzon Street to live close to the British Museum.

(14). Historical Manuscripts Commission: Fourteenth Report, p. 502.

(15). There were five members of the Onslow family in Parliament at that period: Arthur, Denzil, Sir Richard, the Hon. Richard and Thomas.

(16). H.T. Dickinson: Walpole and the Whig supremacy. London: English Universities Press, 1973, p. 85.

(17). N. Wilding & P. Laundry: An encyclopaedia of Parliament. London: Cassell, 1972, p. 506.

(18). H.T. Dickinson: Walpole and the Whig supremacy, loc. cit.

(19). G. de Beer: Gibbon and his world. London: Thames and Hudson, 1968, p. 7.

(20). J.W. Swain: Edward Gibbon the historian. London: Macmillan, 1966, p. 10.

(21). R. Sedgwick (ed): The House of Commons, 1715-1754. 2 vols. London: HMSO, 1970. Vol. 2, p. 62.

(22). J.W. Swain: op. cit., p. 10.

(23). D.M. Low: Edward Gibbon, 1737-1794. New York: Random House, 1937, p. 7. The properties which remained in the family after the Bubble burst included Putney in Surrey, Buriton and Maple Durham in Hampshire and Lenborough in Buckinghamshire. A number of legal transactions took place to effect the rescue, including a new marriage settlement for Gibbon's parents. The new deed was dated 1720, although the marriage had taken place in 1705.

(24). H.H.Milman: The life of Edward Gibbon. London: J. Murray, 1839, p. 28.

(25). W. Law: A serious call to a devout and holy life, adapted to the state and condition of all orders of Christians. 2nd ed. London: W. Innys, 1732.

(26). H.H. Milman: op. cit., p. 133.

(27). Ibid.: pp. 29-30.

(28). Ibid.: p. 35. For a different account of this episode see J. Entick: op. cit., vol. 2, p. 156: 'Edward Gibbon of Putney Esq, who had been requested by his fellow citizens to accept the office of alderman of Wintry Ward on 24th March 1742-3, finding it very inconvenient for him to attend the duty of his office, on account of his constant residence in the country, begged leave, and was permitted, to resign his gown on the 18th June 1745'.

(29). J.W. Swain: op. cit., p. 16.

(30). L. Stone: op. cit., pp. 325-335.

(31). H.H. Milman: op. cit., p. 131.

(32). Ibid.: p. 226.

(33). R.E. Prothero (ed.): The private letters of Edward Gibbon, 1753-1794. Vol. 1. London: J. Murray, 1896, p. 45.

(34). J.W. Swain: op. cit., p. 19. See also the Catalogue of the papers of Dorothea Gibbon. TS, 1936. (BL 11907.dd.25(2)).

(35). H.H. Milman: op. cit., p. 227.

(36). Loc cit.

(37). Ibid.: p. 129.

(38). Ibid.: p. 134.

(39). DNB

(40). G.A. Thomas (ed.): The sermons and charges of the Right Reverend John Thomas, LlD. 2 vols. London: Rivington, 1796, p. xxxvi.

(41). Ibid.: p. lxx.

(42). BCRO: D/CE/uncat. box K.

(43). PRO(C): PROB 11/Odwell, Apr 1793, Carmarthen.

(44). G.A. Thomas: op. cit., p. cxvii.

(45). Gentleman´s Magazine. 1793, vol. 2, p. 863.

(46). G.A. Thomas: op. cit., p. cxlii.

(47). Ibid.: p. xxxvi.

(48). Ibid.: p. lviii.

(49). Ibid.: p. cxxvii.

(50). A. Tucker: An abridgment of ´The light of nature pursued. London: J. Johnson, 1807, p. vii.

(51). J. Fyvie: Noble dames and notable men of the Georgian era. London: Constable, 1910, p. 204.

(52). DNB

(53). A. Tucker: An abridgement..., p. xxxiii.

(54). J. Fyvie: op. cit., p. 208.

(55). Ibid.: p. 205.

(56). DNB

(57). J. Fyvie: op. cit., p. 209.

(58). Ibid.: p. 268.

(59). Ibid.: p. 271.

(60). Ibid.: p. 325.

(61). A. Tucker: The country gentleman´s advice to his son on his coming of age in the year 1755. London: W. Owen, 1755.

(62). J. Fyvie: op. cit., p. 208.

(63). A. Tucker: The country gentleman's advice, p. 32.

(64). Ibid.: p. 54.

(65). DNB

(66). [A. Tucker]: Freewill, foreknowledge and fate; by Edward Search [pseud.]. London: R. & J. Dodsley, 1763; A. Tucker: Man in quest of himself; or, A defence of the individuality of the human mind or self; by Cuthbert Comment [pseud.]. London: R. & J. Dodsley, 1763.

(67). A. Tucker: An abridgement..., p. 303.

(68). B. Willey: The eighteenth century background. Harmondsworth: Penguin, 1962, p. 58.

(69). Ibid.: p. xxxvii. His will, which begins with the words 'I Abraham Tucker make my will in manner following ...' certainly confirms the notion that he was a rationalist. PRO: PROB 11/1003, [Bargrave p. 135(v)].

(70). W.P. Treloar: A lord mayor's diary, 1906-7, to which is added the official diary of Micajah Perry, lord mayor 1738-9. London: J. Murray, 1920.

(71). R. Sedgwick: op. cit. Vol. 2, p. 341.

(72). E. Donnan: 'Eighteenth-century English merchants: Micajah Perry.' Journal of Economic and Business History 4 (1931-1932), p. 72.

(73). It has not been possible to establish the exact whereabouts of this property in Epsom. Surprisingly, he is not mentioned in the VCH.

(74). E. Donnan: op. cit., p. 77.

(75). Ibid.: pp. 91, 94, 97.

(76). Ibid.: p. 81.

(77). W.P. Treloar: op. cit., p.ix.

(78). J. Entick: op. cit. Vol, 3. p. 169.

(79). W.P. Treloar: op. cit., p. x.

(80). The proceedings of the Court of Hustings and Common Hall of the Liverymen of the City of London at the late election for Lord Mayor.London: [s.n.], 1739.

(81). W.P. Treloar: op. cit., pp. 241, 244.

(82). R. Sedgwick: op. cit. Vol. 2, p. 341.

(83). Historical Register 1733, p. 269.

(84). Reasons for electing Sir Edward Bellamy, knight and alderman, Sir John Barnard, knight and alderman, Micajah Perry, esq. and alderman, and the honourable Vice-Admiral Vernon members in the ensuing parliament for this metropolis. [London]: [s.n.], [1741].

(85). R. Sedgwick (ed.): op. cit. Vol. 2, p. 341.

(86). Loc. cit.

(87). London Journal. 823, 12 April 1735.

(88). W.P. Treloar: op. cit., p. ix.

(89). GMR: LM 1153/5.

(90). The 1727 enquiry into the state of the gaols was undertaken as a result of his denunciations in the House of Commons. See CJ, 14 May 1727 and 20 March 1728. His philanthropy was celebrated even in his lifetime. Cf. R. Wright: A memoir of General Oglethorpe, one of the earliest reformers of prison discipline in England, and the founder of Georgia, in America. London: Chapman and Hall, 1867, and H.A. Dobson: A paladin of philanthropy and other papers. London: Chatto and Windus, 1899, p. 9, for particulars about his interest in the navy. Other references to his philanthropic work include a report in the Gentleman's Magazine of January 1741, p. 41, of a petition of the inhabitants of New Inverness to General Oglethorpe against the introduction of slaves into Georgia.

(91). A.A. Ettinger: James Oglethorpe, imperial idealist. Oxford: Clarendon Press, 1936, p. 82. This did not prevent Arthur Onslow from defending Oglethorpe's position in Haslemere when the latter was in precarious position there in 1734 (p.105).

(92). See Appendix 3, Table One. BL (M): Add Mss 39,291: 'The poll for Surry taken at Guildford on the 24th & 25th days of March 1741/2'.

(93). A.A. Ettinger: op. cit., pp. 51, 81-82.

(94). Gifts of money could, of course, be made by will. Arthur Onslow left money to one of his unmarried sisters, who already owed him a substantial amount. PRO(C): PROB 6/937.

(95). London Evening Post: 1259, Dec. 11-13, 1735.

(96). This list excludes the case where the fathers and the sons did not act at the same time. Nor has the relationship between a number of pairs of Justices - William and Richard Moreton, Abraham and Isaac Shard, Richard and George Lewen, Edward and John Elwill, Thomas and John Dawson, William and James Joliffe, Humphrey and Henry Gore - been checked. This list was compiled from attendances at Quarter Sessions, 1727-1760, see Appendix Three of this thesis.

(97). DNB

(98). SCRO: QS2/1/14 Midsummer 1735.

(99). P. Mathias: The brewing industry in England, 1700-1830. Cambridge: Cambridge University Press, 1959, p. 24.

(100). Ibid.: p. 116.

(101). S. Dew: Assurance of interest in a living redeemer, the saints support both in life and in death: a sermon occasion'd by the death of Mrs Mary Bevois, who departed this life March 25, 1735. London: A. Ward 1735. Annotated: 'The substance of which was preached at Mr Gill's meeting house in Horsley Down, Southwark, April 1, 1735.' See also p. vii, ' ... What has chiefly induced me to comply with your request in the publication of it is the having an opportunity of giving the world a specimen of my ministrations and principles; which entirely agree with those that are commonly called Calvinistical, and by way of reproach Antinomian, which I am not ashamed to own ... '

(102). DNB

(103). P. Mathias: op. cit., p. 260.

(104). [R.H. Evans]: A catalogue of the library of Sir Peter Thompson knt. London: [W. Bulmer], 1815. See also BL:11902.c.53 for a reprint of an article on Sir Peter Thompson's Library from Notes and Queries for Somerset and Dorset, March 1925.

(105). DNB

(106). N. Harding: Poems, Latin, Greek and English. London: J. Nichols, Son and Bentley, 1818.

(107). J. Fulham: A sermon preached before the honorable House of Commons in St Margaret's, Westminster, on the twenty-ninth of May 1749 ... London: J. and J. Rivington, 1749.

(108). T. Stileman: A short answer to the charge of schism laid upon the Church of England, shewing that our adversaries have not made good their cvharge. London: R. and J. Bonwicke, 1716.

(109). VCH 3, p. 196.

(110). VCH 3, p. 157.

(111). VCH 2, p. 624.

(112). Fog's Weekly: 325, 25 January 1735. A full description of Carshalton Park is given in J.M. Hobson: The book of the Wandle. London: G. Routledge, 1924, pp. 70-71.

(113). See Table One in Appendix Three. The information is drawn from BL(M): Add Mss 4292.f.146, 'A list of the governors of St Thomas Hospital in Southwark, 1749', and from R.H. Nichols & F.A. Wray: The history of the Foundling Hospital. London: Oxford University Press, 1935, pp. 345-411.

(114). R. Mandrou: Introduction á la France Moderne, 1500-1640. Paris: Albin Michel, 1974, p. 105.

REFERENCES TO CHAPTER EIGHT

(1). H. Jenkinson & D. Powell (eds.): op. cit. Vol. 5, p. 15.

(2). R. Burn: Justice of the peace. Vol. 2, p. 295.

(3). 5 Geo II c.18. The preamble of the Act reads: "Whereas the constituting persons of mean estates to be Justices of the Peace may be highly prejudicial to the publick welfare ...". This complaint seems to have been a fairly common one. L.K.J. Glassey: op. cit., p. 17, footnote 2 cites a similar example from the reign of Queen Anne.

(4). 18 Geo II c.20.

(5). 3 Geo II c.25.

(6). 2 Geo II c.23.

(7). 4 Geo II c.26.

(8). 12 Geo II c.27.

(9). 26 Geo II c.14.

(10). Other acts include 4 Geo II c.26 s.4 and 26 Geo II c.27.

(11). 24 Geo II c.44.

(12). Gentleman's Magazine: November 1751, p. 514.

(13). Weekly Register: 49, February 10, 1731.

(14). L.K.J. Glassey: op. cit., p. 12.

(15). London Evening Post: 1104.

(16). SCRO: QS 2/1/17, Midsummer 1747. It proved impossible to trace the case further in the main PRO series: SP36; SP44.259/60; C231/11; C234/36; C202.

(17). W. Nelson: op. cit., p. 440.

(18). J. Beattie: Note on indictments, p. 308.

(19). SCRO: Calendars of prisoners, QS 2/6/Epiphany, Easter, Midsummer and Michaelmas 1737.

(20). SCRO: Abinger, Alfold, Betchworth, Elstead, Esher, Ewhurst, Godstone, Newdigate and Woking parish deposits.

(21). See English Baronetage, vol. 4, 1741, p. 230: [John Lade] 'acted many years as a justice of the peace for the county of Surry, with great reputation, being esteemed a very able magistrate'.

(22). See Table One in Appendix Three for notes on active justices and attendances at Quarter Sessions.

(23). See Chapter seven above, footnote 14.

(24). R. Sedgwick (ed.): The House of Commons, 1715-1754. 2 vols. London: HMSO, 1970, vol. 1, pp. 411, 529, 563, 612, 614; vol. 2, pp. 196, 382, 505.

(25). See Table Two in Appendix Three.

(26). The early years are certainly underestimates of the number of justices active in Surrey. This arises because the period of activity was computed from the time the individual magistrate signed his first order or attended his first sessions in the reign: earlier activity was not taken into account. Once this first date was noted, however, periods of inactivity in the course of the reign were disregarded.

(27). See Table Two in Appendix Three.

(28). See Table Three in Appendix Three.

(29). BCRO: Q/CP 18.

(30). Gibbon's name is found among lists of Quarter Sessions attendances in Hampshire in the period 1756-1768.

(31). This compares with just under one quarter for the whole of the group under investigation.

(32). VCH 4, p. 326.

(33). Ibid.: 3, p. 412.

(34). Ibid.: 4, p. 23.

(35). Ibid.: 3, p. 195.

(36). Ibid.: 3, p. 512.

(37). F.M. Cowe (ed.): op. cit., p. 31.

(38). S. Webb & B. Webb: The parish and the county, pp. 220-221.

(39). SCRO: P61/1/2 eg 1734 and 1737.

(40). SCRO: QS 2/6/Epiphany 1729/30/68.

(41). SCRO: QS 2/6/Easter 1750.

(42). SCRO: QS 2/6/Easter 1745.

(43). SCRO: QS 2/6/Epiphany 1739.

(44). VCH 3, p. 378; Gentleman's Magazine: 1793, p. 863.

(45). Ibid.: 4, p. 264.

(46). See chapter three above.

(47). VCH 3, p. 475.

(48). London Evening Post: 1903, 22-24 January 1740.

(49). London Evening Post: 2046, 20-23 December 1740.

(50). D. Hay: 'Property, authority and the criminal law,' in D. Hay et al.: Albion's fatal tree. London: Allen Lane, 1975, p. 51.

(51). H.T. Dickinson: Liberty and property: political ideology in eighteenth-century Britain. London: Weidenfeld and Nicolson, 1977, p. 160.

(52). Gentleman's Magazine: February 1731.

(53). W.E. Tate: op. cit., p. 256.

REFERENCES TO THE CONCLUSION

(1). While section 3 of the 1973 Water Act (c.37) provided for a substantial local council representation on the Water Authorities, section 1 of the 1983 Water Act (c.23) vests all appointments in the Secretary of State.

(2). B. Bushaway: ´E. Crittal (ed.): The justicing notebook of William Hunt, 1744-1749: [review]´. Southern History 6 (1984), p. 183.

(3). BL(M): Add Mss 33055.f.103.

MANUSCRIPT SOURCES

SURREY COUNTY RECORD OFFICE (SCRO).

Quarter Sessions records

QS 2/1/12-21	Order books, 1719-1767
QS 2/2/4-8	Minute books, 1723-1764
QS 2/5	Sessions rolls, 1727-1760
QS 2/6	Sessions bundles, 1727-1760
QS 3/1/2	Estreat book, 1751-1765
QS 3/2/1-3	Prisoners books, 1691-1771
QS 3/5/6-8	Process books, 1720-1747
QS 5/4/4	White Lion title deeds
QS 7/5/1-2	Freeholders´ books, 1696-1771

Petty Sessions records

PS 3/1/1	Kingston and Elmbridge minutes, 1752-1794

Manorial records

Acc 180	Fetcham manor rolls
Acc 200	Walton-on-the-Hill perambulation
Acc 752	Stoke D´Abernon manor rolls
Acc 1180	East Betchworth manor rolls
2/1/9	Biggin and Tamworth manor rolls
7/1/6	Caterham manor rolls
15/1/1	Waterville Esher manor rolls
31/1/15	Ebbisham manor rolls
34/1/8,9	Great Bookham manor rolls
37/1/2	Moulsey Prior manor rolls

43/2/2	Newdigate manor rolls
58/4/20	Petersham manor rolls
61/1/56-7	Tandridge manor rolls
66/1/2-25	Nutfield manor steward's papers
67/1/8-9	Nutfield manor rolls
76/1	Frimley manor rolls
97/1/8,9	Chertsey Beomond manor rolls
97/2/3 (b)	Walton Leigh manor rolls
174/4/1	Earl Spencer's notes on manorial customs
181/13/2	Little Bookham manor rolls
181/13/174	Little Bookham perambulation
181/17/8	Cobham manor rolls
186/1/3	Horton manor rolls
187/1/4,5	Banstead manor rolls
192/2/1	Milton manor rolls
192/5/1	Abinger manor rolls
196/1/6,7	Dorking manor rolls
204/2/3	Chellows manor rolls
212/42/16	Ankerwyke Purnish manor rolls
212/46/3	Ewell cum Cuddington rolls
320/1/2	Ravensbury manor rolls
329/5/1	Westcott manor rolls
439/8,9	Headley manor rolls
P25/21/11	Godstone manor rolls

Parish records

2065/2/1	Morden parish accounts

2375/2/1	Banstead churchwardens´ accounts
2381/8/1	Walton-upon-Thames vestry minute book
2384/3/1	Weybridge vestry minute book
2399/7/1	Lingfield vestry minute book
LA/5/52-56	Mitcham settlement examinations
P1/6/1	Abinger ´book of receivings´
P1/9/6-35	Abinger settlement certificates
P2/3/2	Chertsey overseers´ accounts
P3/2/1	Oxted churchwarden´s accounts
P3/5/42	Oxted settlement certificates
P5/5/98/2-122	Wimbledon parish accounts
P6/3/1	Barnes vestry minute book
P6/4/1	Barnes poor rate accounts
P9/3/1	Lingfield poor rate accounts
P21/2/5	Weybridge poor rate accounts
P22/7/1-72	Betchworth settlement certificates
P25/3/1	Godstone vestry minutes
P25/4/195-229	Godstone settlement certificates
P25/4/312-328	Godstone apprenticeship indentures
P28/2/1	Chaldon churchwardens and overseers´ accounts
P33/4/1	Kingston-upon-Thames vestry minutes
P35/2/39-71	Alfold settlement examinations
P37/3/39-49	Newdigate settlement certificates
P38/3/204-227	Ewhurst settlement certificates
P39/3/1 (a)	Capel vestry minutes
P40/3/1	Mitcham settlement examinations
P43/3/1	Elstead poor book

P43/3/35-96	Elstead settlement certificates
P44/1/1,2	East Clandon overseers' accounts
P47/2/273-336	Esher settlement certificates
P47/2/536-548	Esher workhouse records
P48/5/1	Petersham vestry minutes
P52/3/1	Woking vestry minutes
P52/8/15-52	Woking settlement certificates
P56/6/15	Beddington settlement certificates
P56/7/38	Wallington hamlet poor book
P59/1/2 (a)	Bramley churchwardens and overseers' accounts
P61/1/1,2	Leatherhead vestry minutes
P61/2/1	Leatherhead poor book

Miscellanea

Acc 1346	Annual reports of the County Medical Officer of Health
2253/1/1-3	Godalming Borough Records

GUILDFORD MUNIMENT ROOM (GMR)

Borough records

BR/BUR/2 (a)	Freemen's book, incl. 1727-1760
BR/OC/1/3	Gild merchant minutes, incl. 1727-1760
BR/OC/1/11	Gild Merchant draft minutes
BR/OC/3/2	Wardmote and Court of the Clerk of the Market
BO/QS/1/1	General Sessions, 1698-1734
BR/QS/2/1-11	Sessions bundles
BR/QS/3/1/1	Estreat book

Loseley Mss

LM 261/1-18	Godalming Hundred Court rolls and other papers
LM 268/1-337	Godalming Hundred steward's papers
LM 5.8	Godalming Hundred draft court books
LM 295-297	Haslemere Borough manor rolls and other papers
LM 300/1-42	Haslemere Borough manor miscellanea
LM 592/1	Godalming bailiff's accounts
LM 741-742	Papers relating to the dispute between James More and Philip Carteret Webb, 1753-1754
LM 1066/1-10	Charges to Quarter Sessions juries
LM 1153/1-5	Papers relating to the dispute between James Oglethorpe and Sir More Molyneux. 1738
LM 1330/1-107	Muster and military papers, C16-C17
LM 1331/77	Committee on petition for additional road to Godalming, 1757

Other family papers

52/8/7	Bray collection
85/2/2	Bray collection
173/1/1-3	Onslow papers
1248/6,7	Broderick papers.

KINGSTON CORPORATION RECORD OFFICE (KB)

KB 1/2	Court of Assembly book, 1725-1776
KB 9/1	Corporation ledger, 1677-1776
KB 11/3,4	Roll of admission to the freedom of the town, 1728-1835

KB 12/1/1-102	Lists of officers elected annually, 1729-1749
KB 16/11-23	Legal opinions, 1723-C18
KB 19/2/1-3	Extacts from Chamberlain´s accounts, c.1771
KB 23/1/3	Instructions for the use of monies of Borough Charities, C18
KB 24/1/1	Orders governing the almshouses, 1669
KE 1/1/22-24	Saturday Court: proceedings under 40 shillings, 1733-1774
KE 1/1/31-34	Saturday Court: proceedings over 40 shillings, 1729-1767
KE 2/2/36-66	Borough Sessions files, 1727-1748
KE 2/5/2-4	Bailiffs´ minute books, 1730-1765
KE 4/2/36-47	Market Sessions bundles, 1727-1750
KF 1/1/67-98	Kingston manor records, 1729-1760
KS 1/2/1	Minutes of the Tax Commissioners, 1723-1757
KS 2/1/1	Kingston and Elmbridge Petty Sessions minutes, 1723-1751

BRITISH LIBRARY DEPARTMENT OF MANUSCRIPTS (BL(M))

Add Ch 5641-3	Appointment of deputy lieutenants for Surrey
Add Mss 5871.f.186	Poem on Arthur Onslow, n.d.
Add Mss 6167	Symmes Collection for Surrey, C17
Add Mss 11571	´A travelers reveries or journey through Surrey and sussex´, 1752
Add Mss 11572	Surrey sermons
Add Mss 15949	Evelyn correspondence
Add Mss 29599	Carew papers

Add Mss 32731.f.355 Letter from Richard Lord Onslow to the
32731.f.363 Duke of Newcastle, 1753, with answer

Add Mss 32875.f.79 Notes by Nicholas Harding on additional taxes, 1757

Add Mss 32882.f.382 Copy letter from Duke of Newcastle to Mr Legge, 1761

Add Mss 32918.f.6 Letter from George Onslow to the Duke of Newcastle, 1761

Add Mss 32932.f.58 Letter from Kenrick Clayton to Duke of Newcastle, 1761

Add Mss 33061.f.194 List of Lieutenants for City of London

Add Mss 34727.f.264 Letter from James Earl Berkeley, custos rotulorum of Surrey, 1711

Add Mss 35586.f.102 Letter from William Clayton to Hardwicke, 1738

Add Mss 35591.f.102 Letter from Lord Aylesford to Hardwicke, 1737

Add Mss 35600.f.83 Letter from Duke of Newcastle to Hardwicke, 1737

Add Mss 35601.f.313 Petition for the appointment of a Surrey Justice of the Peace, 1743

Add Mss 35602.f.127 Request by Arthur Onslow for the appointment of a Hampshire Justice of the Peace

Add Mss 35604.f.4 Letter from Archbishop of Canterbury to Hardwicke, 1752

Add Mss 35604.f.293 Letter from Henry Fox to Duke of Newcastle, 1756

Add Mss 35633.f.394 Letter from R. Morton to Hardwicke, 1754

Add Mss 36135.f.45 Notes [by John Lade] on St Saviour's vestry n.d.

Add Mss 36232.ff.5-15 Notes on the history of Reigate

Add Mss 36584.f.22 Notes on Bermondsey

Landsdowne 226 Notes on the history of Kingston upon Thames by Nicholas Harding

BUCKINGHAMSHIRE RECORD OFFICE (BCRO)

Q/CP/16-20	Quarter Sessions records. Commissions of the Peace, 1727-1760
Q/FR/87-255	Quarter Sessions records. Treasurers´ rolls, 1727-1760
Q/SM/1-4	Quarter Sessions records. Minute books, 1727-1760
Q/SO/11-16	Quarter Sessions records. Order books, 1724-1763
S/1/1	Shrievalty records. County Court plea book, 1714-1729
DC 18/39/4	District Council records. Justice Edmund Waller´s notebook, 1773, 1786-1788
D/X/8	Deposited papers. Sheriffs´ agreement re cost of liveries and related expenses, 1680
D/X/uncat	Deposited papers. Baker papers
D/CE/uncat	Deposited papers. Clayton papers, box K.

CORPORATION OF LONDON RECORD OFFICE (CLRO)

223 C	Southwark Sessions abjuration rolls
223 E-F	Southwark Sessions books
224 A-D	Southwark Sessions files (boxes 9-11)
225 E	Southwark Sessions rough minutes (box 17)
225 E	Southwark Sessions transportation bonds (box 18)

GREATER LONDON RECORD OFFICE (GLRO)

A/JM/773	Southwark Borough Market papers
DW/D	Archdeaconry papers. Dissenters´meeting houses certificates
DW/OB/5,7	Archdeaconry papers. Muniment books

DW/P	Archdeaconry papers. Caveat books
DW/PC/1/12,13	Archdeaconry papers. Probate and administration act books
DW/S	Archdeaconry papers. Terriers
DW/VP	Archdeaconry papers. Visitation papers
DW/uncat	Archdeaconry papers. Cause papers
DW/unnumbered	Archdeaconry papers. Index to wills proved in Archdeaconry Court
DW/unnumbered	Archdeaconry papers. Index to will proved in Commissary Court
M95/BEC/26,39	Manorial records. Streatham and Tooting Bec court book
P85/MRY/116,274	Parish record. St Mary´s Lambeth
P92/SAV/452,600,927	Parish records. St Saviour´s, Southwark
P95/TRI 1/3,4,5	Parish records. Clapham Holy Trinity

PUBLIC RECORD OFFICE, CHANCERY LANE (PRO(C))

ASSI 31/1,2	Assize records. S.E. circuit agenda books
ASSI 34/54	Assize records. Small miscellaneous volumes
ASSI 34/76	Assize records. Rule book, Home Circuit
ASSI 35/-	Assize records. Surrey sessions rolls
E 134	Exchequer records. Depositions by Commission
E 362	Exchequer records. Estreats
E 370	Exchequer records. Appointments of sheriffs´ deputies
LR3/65-67	Land Revenue records. Egham manor rolls
LR3/84-89	Land Revenue records. Richmond manor rolls
PC 2/90	Privy Council records

PC 4/1	Privy Council records. Minutes of the Clerk of the Council
PROB 6, PROB 11	Probate records
SP 36, SP 44, SP 46	State Papers

PUBLIC RECORD OFFICE, KEW (PRO(K))

HO 51/1,2	Home Office papers. Militia entry books, from 1757
T1/367/23	Treasury papers
T1/383/12,13,14	Treasury papers
T1/433/15	Treasury papers
T4/24	Treasury papers
T11/21	Treasury papers
T60/14,15	Treasury papers. Treasury Order Books
WORK6/28,44	Minutes and accounts of the Commissioners for Westminster Bridge

CONTEMPORARY PERIODICALS

The Country Journal or the Craftsman (usually known as The Craftsman)

The Daily Gazetteer

The Daily Journal

The Daily Post Boy

Fog's Weekly Journal

The Free Briton

The Gentleman's Magazine

The London Chronicle

The London Daily Advertiser

The London Evening Post

The London Journal

Old Common Sense

The Whitehall Evening News

APPENDIX ONE: The Loseley Mss Charges

[Guildford Muniment Room: LM 1066/6]

At Guildford Quarter Sessions 1744

In Court: Lord Aylesford and Lord Onslow
Mr Woodford
Mr Edwards
Mr Austen
Mr Woodroff
Mr Denzil Onslow

This charge was given also again at Guildford Quarter Sessions 1746 when the last paragraph was added to this charge & given instead of the pargraph which is immediately foregoing to it.

In Court: Lord Aylesford & Lord Middleton
Mr Woodford
Mr Edwards
Mr Austen &
Parson Stileman

[p.2] Gentlemen of the jury

As no government can subsist without it is strongly

compacted & bound together by good & wholesome laws; & as the best laws are of no force & efficacy without a due & vigorous execution of them; it is the duty as well as the interest of us all in our severall stations to use our utmost endeavours to promote & forward so necessary & usefull a work. Coud that great law which is written in every man (of doing as he would be done unto) take place & prevail amongst us; coud that law lift up its voice from within, so as to [be] heard by us with a due attention, our case woud be happy indeed: but, gentlemen, the heart of man is so generally corrupted, & human nature [p.3] has so strong an alloy of passion, prejudice & interest interwoven & blended to the voice of that charmer, charm he never so wisely.

This makes it necessary for all governments to invent & contrive such laws as may best suit the genius of the people, & at the same time answer all the ends of the constitution. That the weak may be secur'd from the violence of the strong; & that every man may find, both as to his person & his property, a sure refuge under the shelter of the publick authority. We, gentlemen, are so fortunate as to have a constitution well adapted to these ends, that it is not only the strength & glory of this country, but the envy of all neighbouring nations. Then how [p.4.] blameable shoud we all be? How unworthy of receiving the good effects of these wise laws, shoud we omit any opportunity of carrying

them into a due execution, especially when call´d upon by the duty of our stations for that end? This gentlemen, I need not tell you is the business of this day, as far as these laws relate to the jurisdiction of this court.

Therefore, gentlemen, I must direct you to enquire of & present all offenders against morall justice; under which head is comprehended all profaneness, vice & immorality. You are to present all those who are guilty of offence against the establish´d Church, breach of the Sabbath, profane cursing & swearing, drunkenness & bawdry. And first, gentlemen, you are to enquire of & present all those that absent themselves from Church, or any protestant [p.5] assembly of divine worship tolerated by law, on Sundays and holidays; those who deprave the sacrament by word of mouth or otherwise. You are to present Sabbath breakers in any respect, either for pleasure or proffit; but works of piety, charity or necessity, are excepted on that day; You are to present all disturbers of any assembly for divine worship; & all fighters & strikers in churches or churchyards; all which offences are cognizable by & punishable in this court. In the next place, gentlemen, I think the daily practice of cursing & swearing, is a matter sadly & seriously to be consider´d; not only with regard to its impiety in point of religion; but with regard to its evill consequences in the civill government. For a man that uses himself to habit of common swearing, is very [p.6] apt to make light of an oath

even when he takes it on the most serious and solemn occasion. Be sure to present all common swearers.

The next crying immorality is drunkenness & that crys loud enough to be heard by us all; drunkenness is a vice upon which one of our statutes stamps this most infamous character; that it is loathsome & odious; that it is the root & foundation of bloodshed, stabbing, murder, swearing & many other enormous crimes. Our laws, gentlemen, have provided a punishment not only for drunkards but also for all public houses that harbour & entertain them. For as we are inform'd by the statutes relating to this matter, the antient, true & principall use of such publick houses was for the receipt, relief & lodging of travelers; [p.7] and for the supply of the wants of such people as coud not buy in their provision of meat & drink in greater quantitys; but was never meant for harbouring & entertaining of lewd, idle disorderly people to riot & wast their time & substance in, & by that means oftentimes bring large familys to the parish. Gentlemen, the offences against these statutes concerning drunkenness & all disorders in alehouses are to be diligently enquir'd into, & presented at every quarter sessions. In the next place, you are to present all houses of bawdry; all keepers and frequenters of such houses fall under the cognizance & censure of this court. For bawdry is an offence temporall as well as spirituall & is against the peace of the land. These houses are the great [p.8] nurserys

& seminaries of debauchery, where the youth of the nation are initiated, but all too early in all the misterys of vice; that you cannot be too strict in your enquirys on that head. Gentlemen, you are to present all offenders against civill justice; but as high treason, misprisons of treason, petty treasons, premunires & all felonys above petty larceny are under the cognizance of the superior courts, I shall not take up your time defining them.

Gentlemen, petty larceny is the felonious taking & carrying away the personall goods of another, but not of his person, nor out of his house, & not exceeding the value of twelve pence. You are to present all those that speak idle words of the King, his ministers or magistrates; all the authors, printers and publishers of seditious libells against [p.9] government officers of state or privy counsellors. Present all forcible entrys, forcible detainers, riots, routs & unlawfull assemblys & all other breaches of the publick peace. Present all publick nusances as bridges out of repair, highways not amended, ditches unscour´d & hedges not strip´d according to the statutes. Present all offence against publick justice as bribery extortions of all officers under colour of their office. The negligence of constables, tithingmen, headboroughs & all other officers intrusted with a particular administration of justice. Those we shall be sure not to spare; but punish severly as they deserve. All those offenders (and many more

I coud mention) may be by the law bound to their good behaviour, or imprison'd, indicted & fin'd; & of [p.10] such I charge you carefully to enquire & present them.

Gentlemen, as this is a time of particular & eminent danger, we cannot be too careful & vigilant in preserving the peace of the country. When we are engag'd with the most perfidious of enemys abroad, & have very narrowly escap'd an invasion at home: an invasion, which must in the nature of it have overwhelm'd us with blood & confusion. I hope we shall not fail on all occasions, but especially at this time, to have watchfull eye over their conduct, - who by their religion or principles are anyways disaffected to the government. As we are but too fully convinc'd that no tenderness towards them will reclaim their hearts, we must take care to disarm their hands; and since there are many good laws in force [p.11] against them there is great reason that they suffer the penaltys that are provided for them especially those of them (if any such ther are) who having taken the oaths to the government, and notwithstanding that sacred tye omit no opportunity of shewing by their words & actions, their malevolence to the present royall family & government. We may then judge of the tree by its fruit. Against such men as those, we cannot be too much upon our guard, least we shoud be made sensible by sad experience (and when it is too late) that although their voice is the voice of Jacob; yet gentlemen, their hands are the hands of

Esau; hands full of treachery, cruelty & blood.

[p.12] And now, gentlemen, as we have had in these parts a great & providentiall escape from a most unprovok'd & unnatural rebellion at home, which was aided & assisted by our most inveterate and perfidious enemys abroad, (the bloudy & wasting effects of which, the Northern parts of these kingdoms have severely felt, and the wounds of it are amongst us all in some shape or another, as it were, still bleeding) it behoves us to have a most watchfull eye over all those who by their religion or principles we have reason to suspect to be any ways disaffected to his present majesty or his government; and those are chiefly popish recusants, non-jurors & protestants, who altho' they have taken the oaths to his present majesty, & enjoy the benefit of his protection, do yet make it their business to [p.13] libell & censure the government & in their words & daily behaviour shew themselves disaffected; and to give them their due character, they are but one degree from traitors. Therefore since nothing will make such men friends to this government prudence directs us to use the best caution we can against their designs; & since there are many good laws against them, there is great reason that they suffer those penaltys, that are provided for them. For a government legally established & regularly administered (as ours is) must not suffer the insults or the depreciating of any set of men whatsoever; and those whom neither prudence nor modesty will

restrain within the limits of their duty, must be taught it by the severe discipline of the law. Therefore gentlemen, it is your business diligently to enquire, & duly to present [p.14] all such disaffected & seditious persons, & we will take [care] to see them punished according to the full measure of their deserts.

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MEMORANDUM: The statute of concealment of jurys is the 3d of Henry the 7th c.5th.

[Guildford Muniment Room: LM 1066/7]

At Guildford, Midsummer Quarter Sessions 1745.

In Court: Lord Onslow
Mr Edwards
Mr Woodford
Mr Fulham
Mr Denzill Onslow
Sir John Elwell
Mr Mercliff
Mr Moreton

Given also at the same sessions in 1750.

In Court: Lord Onslow

Mr Woodford

Mr Edwards

Mr Fulham

Extracted chiefly from Sir John Gunson´s Five Charges printed for W. Meadows at the Angel in Cornhill & C. Ackers in St John Street [p.2].

Gentlemen of the Jury,

Liberty is one of the chiefest goods of civill society: because it is that which makes every thing we possess our own: without this liberty all property centers in those who govern, & not in them who are governed. By liberty is not meant licentiousness, or for men to act without controul, but under the restraint of good laws; so far free & at liberty as reasonable creatures wold wish to be; and so far restrain´d as is necessary for the peace & good of society.

The constitutions of different countrys are indeed various, but the obligations between the governing & the governed are everywhere mutual. The office of a king, a senate, or of the governed in a popular state is to protect the people in their lives, libertys and propertys; and to this end they claim the allegiance, obedience & assistance of their subjects [p.3].

The old Roman & most of the Grecian states were built upon republican principles; but when the Goths & other northern nations destroy'd the Roman Empire, & extended their conquests into far distant countrys; they establish'd, wherever they came, a mixt form of government; the preservaton of which constitution depending upon the balance between the king, the nobility and the people, the legislature power was lodg'd in these three estates, call'd by different names in different countrys; & in this country at this day by the word Parliament. The excellency of this mixt government consists in that due poize or ballance between rule and subjection, which is so justly observ'd in it & which is the strength & measure of its duration.

But length of time, & a succession of folly & corruption in two parts of the legislature, & the cunning & success in the third have driven it almost out of Europe: whilst we in Great Britain have still happily preserv'd this noble & ancient Gothick constitution, which all our neighbours once enjoy'd, as well [p.4] as we, who are the wonder & glory of all the kingdoms round about us.

But of all the inestimable advantages derived to us from this our wise frame of government, none deserves to be more highly priz'd & valu'd than that peculiar birth right of ours, tryals of causes whether civill or criminal, by jurys: an undoubted part of the Gothick constitution our

most excellent laws preserve their honour & best exert their power & force by a due, impartiall & vigorous execution, & an equall distribution of justice and our lives, libertys & propertys in a great measure depend upon the due execution of that great power, which by the wisdom of our constitution is intrusted with Grand and Petty Jurys.

You, Gentlemen, are therefore summon'd here, & sworn to enquire of & present to us all such crimes & offences as fall within the cognizance of this court. All manner of crimes are presentable by you, from the highest to the lowest offences, from high treason to trespass: but tho' high treason [p.5] petty treason, burglary & felonys of all sorts are enquirable by you and every grand jury: yet because bills of indictment for these crimes are seldom or never brought to you at the Quarter Sessions I shall omit to give you in charge any capitall offences, & confine my self to those only that are both enquirable of presentable and punishable here.

In the first place, the honour & service of Allmighty God ought to be our chiefest care: and we shoud all endeavour to put a stop to that deluge of profaneness that has overspread the nation and it were happy if our holy religion did not suffer as well from its enemys diligence to corrupt our principles, as from the wicked lives of us professors. You have heard His Majesty's proclamation read to you, for the

encouragement of piety & virtue, and for the preventing & punishing of vice, profaneness & immorality. [p.6] The offences expressly mention´d in this most excellent proclamation are excessive drinking, blasphemy, profane cursing, & swearing; lewdness, profanation of the Lords Day, all publick gaming and gaming houses & other lewd and disorderly practices. Drunkenness is a vice that calls aloud for your redress on a double account; first upon a religious one, as it is an offence against Almighty God; & secondly upon a political one, because it reduces whole familys to poverty, ruin & the parish. A common drunkard is indictable in sessions as well as punishable in a summary way. A common swearer is a nusance to the place where he lives: and as this is a sin very dishonourable to God, so it is in this particular to human society: for profane cursing & swearing contributes much to the growth of perjury. Oaths are little minded, when constant and habituall use has sully´d them, & every minute´s repetition of them has made cheap & common. Who can believe that a man who hourly provokes God by rash & vain swearing, shoud stick at a false [p.7] oath whenever his ambition, his covetousness or his revenge prompt him to it, & importunately demand to be gratify´d, tho´ at so vast a price! You are to present to this court all such persons who do not come to church, or some religious meeting allow´d by law on Sundays: and the profanation of the Lords Day is of late become very notorious. All these offences are in their nature more immediate offences against Allmighty God &

his holy religion establish'd amongst us.

You are likewise to enquire of such offences as are committed against your neighbours or fellow subjects, & which injure them in their persons, their propertys or reputations. You are to enquire of petty larceny; petty larceny is the felonious taking & carrying away the personall goods of another, but not of his person, not out of his house, & not exceeding tha value of twelve pence. You are to present all assaults, batterys & affrays, & in generall all breaches of the peace. You are to enquire of & present all riots, routs, & unlawful assembly. You are to present all forestallers, regrators & ingrossers. [p.8] Forestalling is buying up commoditys by the way before they come to market. Regrating is buying corn or other victualls & selling the same again in the same market, or in any other within four miles. Engrossing is buying up great quantitys of corn on the ground, or other victualls, & selling the same again. Those our laws esteem great offenders, who without any real cause, enhance the price of corn & other victuals, & thereby occasion unneasiness, discontent & murmuring, especially amongst the lower sort of people. You are to present all bawdy houses, gaming houses, unlicens'd ale houses & all disorderly houses of what sort soever. Those houses & shops where people get frequently drunk with tipling geneva & other spirituous liquors are indictable as disorderly houses, whether they have or have not licenses.

Nothing is more destructive, either to the wealth or industry of the poorer sort of people on whose labour & strength the support of the community so much depends, than immoderate drinking of these liquors.

You are also to present all treasonable & seditious libells against His Majesty or his ministers of state, [p.9] other great men or magistrates. These are indictable at common law. You are to enquire of & present all neglects or connivances of all officers of justice concern'd in the execution of the laws: whether they are guilty of bribery, by taking of gifts or rewards to prevent or delay justice; or are guilty of extortion by taking fees, where none are due, or before they are due; or greater than by law are due to them. You are to enquire of all publick nusances, the want of repairs in bridges & common highways, whether the ditches are scowr'd & hedges strip'd up according to the statute.

Gentlemen, the oath that you have taken obliges you to present all such matters & things as come to your knowledge touching this present service, as well as such offences as shall be given you in charge; and by the statute of the third of King Henry the seventh; if a Grand Jury conceal any thing which they ought to present, the justices may within a year impannel another jury to enquire of such concealment [p.10] and upon conviction, fine every one of the former

jury at the discretion of the court; so earnestly the law insists upon your doing you dutys.

You are, gentlemen, of so good understanding & capacity, & so well experienc'd in the nature of this service; that it will not be necessary to give you a longer detail of the many & various kinds of offences enquirable by you: and I have no doubt but you'll impartially lay before this court by your presentments, as well what things I have given you in charge as those that you know to be cognizable here, in order to have the offenders punish'd & the grievance redress'd, by the effectual putting the laws in due execution. And upon any doubts or difficultys, which in the course of your enquirys you may meet with, the court, upon your application to it will give you all due assistance.

APPENDIX TWO: A note on the use of indictments

Reservations about the use of indictments as a basis for statistical comparisons have been discussed in Chapter 3 above. It remains true, however, that some of the conclusions of this thesis are based on an analysis of Surrey indictments in the reign of George II, and this ought to be explained in detail. The figures used in Chapters 3, 4 and 5 have been compiled from the Surrey Quarter Sessions process books (SRO QS/3/5/6-8). These volumes, written up in court, are more complete than the sessions rolls more traditionally used by historians, notably J. Beattie, in their empirical work. There are two reasons for the difference between the two sources. Firstly books survive better than loose documents filed on a string or thong. Secondly, it was the practice of the court to remove from the rolls indictments which had been removed by certiorari to the King's Bench court, while the counterpart entries duplicated in the process books were not erased.

The sessions covered by the analysis made in this thesis are, for the early period, Midsummer 1727 to Easter 1729, and for the later period, Easter 1757 to Michaelmas 1759. For both the early and the later period all indictments were included, notably the administrative ones. This has been questioned by a number of the people who read drafts of the relevant chapters, but I believe that though

there is some truth in the assertion that indictments for the repair of the highways are qualitatively different from those covering, say, petty larceny, it is as artificial, if not more so, to exclude various types of indictments from an analysis which attempts to look at the way the court is working, and is perhaps less concerned with patterns of criminal behaviour.

The data for both the early and the late period was encoded and prepared for computer input. Two files were created, Earlycrime and Latecrime, and processed using the FAMULUS package. For each indictment, the following information was recorded:

DATE (Session)

NUMB (Indictment number; where two people were indicted in the same document, two entries were necessary, as the outcome of each case could be different)

DOCU (For a differentiation between indictments and articles of the peace)

OFFE (Offences; 18 different headings were used here: Grand Larceny; Petty Larceny; Fraud; Breaking and Entering; Receiving Stolen Goods; Game Laws Offences; Other Property Offences; Assault; Riot and Assault; Assault with Sexual Intent; Riot; Public Nuisance; Officers' Neglect; Citizens' Neglect; Trading Offences; Sabbath Breaking; Public Houses and Brothels (Gaming and Drinking Offences); Private Nuisances; Other Misdemeanours)

PLEA (7 different headings were used here: Guilty; Not Guilty; Dead; Cessat Processus; Not Entered; Certiorari; Other)

GRAN (Grand Jury returns; 5 different headings were used here: True Bill; Not Found; Dead; Cessat Processus; Other)

PETT (Petty Jury returns; 5 different headings were used here: Guilty; Acquitted; Dead; Cessat Processus; Other)

VERD (Verdict; 6 different headings were used here: Fine; Whipping; Transportation; Prison; Recognisance; Other)

ANNO (This field was used mostly to note the amount of the fines or the particulars of verdicts)

It then became easy to permutate the main headings, so that both Earlycrime and Latecrime could be sorted by date, offence, plea, grand and petty jury returns and by verdicts.

APPENDIX THREE: THE ACTIVE MAGISTRATES

The purpose of this appendix is to summarise in three tables the information which provided the basis of the calculations in chapter eight above.

TABLE ONE: ACTIVE JUSTICES, SURREY 1727-1760

The following list was compiled from the attendance lists at Quarter Sessions and from recorded Removal Orders against which appeals were filed in Surrey, that is to say, Removal Orders signed by Surrey Justices. Both series were entered in the court order books (QS 2/1/13-20). The years in the first and second columns of the table indicate the beginning and end of the period during which each Justice is known to have been active in the course of the reign of George II: this may lead to inaccuracies, particularly in the case of Justices who though active before 1727, were not active (for whatever reason) in the first few years of our period. The next figure spells out the span of their period of activity. The Q and R columns show the number of recorded attendances and signed removal orders. In the table below, attendances at adjournments were counted separately, as it often was the case that a justice attended the original sessions and not the adjourned meeting and vice versa. C denotes those individuals who presided at a session; MP identifies members of Parliament; B and W show the persons known to have voted for Baltimore and Woodroffe respectively in 1742; F is used for subscribers to the Foundling Hospital and T for Governors of St Thomas' Hospital.

1752	1760	09	Q17	R00	C	MP	ABDY ANTHONY		F	
1727	1751	25	Q05	R18		--	ALLEN ANTHONY	B	F	
1729	1737	09	Q07	R02		--	AMY JOHN			
1737	1760	24	Q16	R09		--	ATKINSON SAMUEL			
1730	1759	30	Q35	R23	C	--	AUSTEN ROBERT			
1727	1728	02	Q02	R00		--	BAGNALL JOSEPH			
1728	1743	16	Q25	R15		--	BALLARD GEORGE			
1727	1753	27	Q33	R05	C	--	BARKER EDWARD			T
1760	1760	01	Q01	R00		--	BARON OLIVER			
1743	1743	01	Q01	R00		--	BAYNTUM THOMAS			
1757	1760	04	106	R03		MP	BELCHIER WILLIAM		F	T
1743	1753	11	Q13	R06		--	BEVOIS THOMAS			T
1728	1728	01	Q02	R02		--	BILLERS WILLIAM			
1752	1760	09	Q26	R03	C	--	BISHOP ELLIOT	B		
1756	1758	03	Q02	R00		--	BODENS CHARLES			
1733	1733	01	Q00	R02		MP	BOONE CHARLES			
1742	1742	01	Q00	R01		MP	BOONE DANIEL	B		
1743	1760	18	Q19	R07		--	BOOTH ROBERT	W		
1754	1754	01	Q01	R00		MP	BOSCAWEN EDWARD			

1753	1759	07	Q11	R02		--	BOWEN ROWLAND				
1760	1760	01	Q03	R00		--	BRAMSTON GEORGE				
1758	1758	01	Q01	R00		--	BRIDGES THOMAS				
1734	1746	13	Q06	R04		--	BRODRICK ALLAN (Midleton)		B		
1742	1743	02	Q01	R02		--	BROWN JEREMIAH				
1743	1758	16	Q05	R11		--	BROWNING WILLIAM		B		
1727	1728	02	Q02	R00		--	BUDGEN EDWARD				
1727	1739	13	Q23	R09	C	--	BUDGEN JOHN				
1737	1760	24	Q19	R08		MP	BUDGEN THOMAS				T
1743	1743	01	Q01	R00		--	BULLOCK RICHARD				
1731	1748	18	Q11	R03		MP	CALVERT CHARLES (Baltimore)				
1756	1759	04	Q05	R03		--	CAREW NICHOLAS HACKETT		B		
1728	1739	12	Q01	R06		--	CARKESSE CHARLES		B		
1728	1741	14	Q08	R01		--	CHALMERS ALEXANDER				
1743	1758	16	Q08	R06		--	CHALMERS ZACHARY				
1739	1740	02	Q01	R01		MP	CHETWYND WILLIAM				
1732	1752	21	Q03	R04		--	CHILD CHARLES		B		
1735	1748	14	Q04	R05		--	CHITTY JOSEPH		W		T
1743	1755	13	Q04	R04		--	CLARK CHARLES		B		
1729	1758	30	Q21	R12		--	CLARK JAMES				
1742	1759	18	Q37	R81	C	--	CLARK WILLIAM		B		
1740	1758	19	Q03	R01		MP	CLAYTON KENRICK			F	T
1728	1743	16	Q03	R05		MP	CLAYTON WILLIAM				
1758	1758	01	Q00	R01		MP	CLAYTON WILLIAM (2nd son)			F	
1754	1760	07	Q08	R00		--	CLEAR THOMAS				
1729	1736	08	Q06	R00		--	COCK PETER				
1752	1759	08	Q05	R02	C	MP	COLEBROOK JAMES				T
1746	1746	01	Q00	R01		MP	COLYEAR CHARLES (Portmore)				
1737	1749	13	Q03	R00		--	CONWAY MICHAEL WILKINS				
1730	1736	07	Q00	R04		MP	COOKE JAMES				
1735	1742	08	Q03	R05		--	COOPE RICHARD				
1760	1760	01	Q03	R00		--	COOPER EDWARD				
1737	1754	18	Q24	R14		--	COPELAND JOHN		B		T
1727	1728	02	Q02	R00		--	COX CHARLES				
1743	1760	18	Q30	R01		--	CRESWICKE JOSEPH				
1760	1760	01	Q01	R00		--	DARBY JOHN				
1733	1733	01	Q01	R00		--	DARNILL JOHN				
1760	1760	01	Q03	R00		--	DAWSON JOHN				
1754	1760	07	Q27	R18		--	DAWSON THOMAS				T
1758	1758	01	Q01	R00		--	DAYROLLE SOLOMON				
1747	1747	01	Q01	R00		--	DENNE JOHN				
1752	1757	06	Q01	R01		MP	DICKER SAMUEL				
1727	1735	09	Q02	R01		MP	DOCKMINIQUE PAUL				
1739	1746	08	Q04	R00		--	DOLLIFE JAMES				
1752	1759	08	Q06	R09		--	EDGELL WILLIAM				
1729	1731	03	Q00	R02		--	EDISBURY KENRICK				
1728	1742	15	Q04	R07		MP	EDWARDS JAMES				T
1739	1759	21	Q28	R10		--	EDWARDS VIGERUS		B		T
1730	1743	14	Q08	R00		MP	ELLIOT JOHN		B	F	T
1760	1760	01	Q01	R00		--	ELLIS THOMAS				
1730	1730	01	Q00	R01		--	ELWELL EDMUND				
1745	1753	09	Q05	R00		MP	ELWILL JOHN				
1732	1733	02	Q02	R01		--	ELWYLL EDWARD				
1731	1744	14	Q06	R03		--	ENGIER THOMAS				

1727	1728	02	Q01	R01		MP	ESSINGTON JOHN					
1754	1758	05	Q05	R02		MP	EVELYN JAMES			F		
1734	1760	27	Q16	R05		MP	EVELYN JOHN					
1738	1740	03	Q02	R00		--	FARRINGTON ANTHONY		W			
1760	1760	01	Q01	R00		--	FIELDING JOHN					
1743	1755	13	Q10	R04		MP	FINCH HEANAGE (Aylesford)					
1729	1745	17	Q25	R07		--	FOLLIOTT JOHN		B			
1760	1760	01	Q01	R00		--	FREDERICK THOMAS					
1735	1760	26	Q25	R17		--	FULHAM JOHN					
1748	1754	07	Q05	R00		--	GARRARD ROBERT					
1753	1754	02	Q03	R00		--	GEARY FRANCIS					
1746	1753	08	Q04	R03		MP	GIBBON EDWARD		W			
1729	1742	14	Q06	R00		--	GONSON JOHN			F		
1750	1755	06	Q01	R02		--	GORE HENRY		B			
1736	1737	02	Q00	R02		--	GORE HUMPHREY					
1735	1735	01	Q01	R00		--	HALL BENJAMIN					
1745	1746	02	Q02	R00		--	HALL HENRY					
1728	1729	02	Q01	R00		MP	HALSEY EDMUND					T
1743	1760	18	Q38	R48		MP	HAMMOND WILLIAM		W			
1741	1743	03	Q01	R00		--	HANDASIDE ROGER					
1743	1760	18	Q36	R00	C	--	HANKEY THOMAS		B			T
1728	1757	30	Q46	R01	C	MP	HARDING NICHOLAS		B	F		T
1727	1728	02	Q02	R00		--	HARDING NICHOLAS (senior)					
1752	1759	08	Q06	R00		--	HARRIS WALTER					
1729	1729	01	Q01	R00		MP	HARRISON GEORGE					
1745	1745	01	Q01	R00		--	HARTUP JOHN					
1729	1739	11	Q10	R05		--	HARVEST WILLIAM					
1727	1727	01	Q02	R00		--	HATTON WILLIAM					
1729	1730	02	Q03	R03		--	HAWTAYNE MALACHY					
1731	1733	03	Q02	R01		--	HEATHER JOHN					
1745	1758	14	Q15	R15		--	HEATHFIELD JOHN		W			
1735	1759	25	Q16	R03	C	MP	HERVEY JOHN					
1737	1745	09	Q02	R06		--	HIND ROBERT					
1753	1753	01	Q01	R00		--	HOARE RICHARD					
1747	1747	01	Q01	R00		--	HOLMAN JOHN					
1730	1746	17	Q06	R03		--	HOPSON EDWARD					
1760	1760	01	Q02	R00		--	HORTON THOMAS					
1753	1760	08	Q11	R00		MP	HOWARD THOMAS					
1727	1746	20	Q15	R27		--	HUCKS THOMAS			F		
1728	1728	02	Q00	R02		MP	HUNGERFORD JOHN					
1732	1734	03	Q02	R00		MP	INWEN THOMAS		W			
1760	1760	01	Q01	R00		--	JAMES ROBERT					
1728	1731	14	Q02	R01		--	JENISON FRANCIS					
1736	1738	03	Q00	R02		--	JERVOISE RICHARD					
1747	1748	02	Q02	R00		--	JOHNSON ROWLAND					
1741	1741	01	Q00	R01		--	JOLLIFFE JAMES					
1728	1737	10	Q07	R06		MP	JOLLIFFE WILLIAM			F		T
1728	1744	17	Q11	R09		MP	JORDAN THOMAS					
1728	1754	27	Q08	R01		MP	KENT SAMUEL		B			T
1727	1739	13	Q02	R01		--	KENT WALTERS					
1738	1745	08	Q12	R13		--	LACEY ROBERT					
1728	1739	12	Q18	R16	C	MP	LADE JOHN					
1752	1755	04	Q07	R00		--	LEDIARD THOMAS					
1747	1748	02	Q01	R01		--	LEE ROBERT					

1736	1741	06	Q06	R12		--	LEIGH WILLIAM				
1743	1743	01	Q00	R01		MP	LEWEN GEORGE				
1730	1730	01	Q01	R00		--	LEWEN RICHARD		B		
1760	1760	01	Q01	R00		MP	LEWIS EDWARD				
1760	1760	01	Q01	R00		MP	LEWIS THOMAS				
1743	1747	05	Q05	R03		--	LONDON EDWARD		B		
1729	1735	07	Q15	R01		--	LOVIBOND EDWARD				
1729	1729	01	Q00	R01		--	LUDLOW HENRY				
1736	1737	02	Q02	R00		--	LUDLOW LAMBERT				
1757	1757	01	Q01	R00		--	MACKERELL JOHN				
1735	1738	04	Q03	R00		--	MALYN THOMAS				
1728	1738	11	Q06	R06		--	MAN JOHN				
1760	1760	01	Q03	R00		--	MAN WILLIAM GODSHALL				
1745	1750	06	Q11	R01		--	MANSHIP JOHN		B		
1760	1760	01	Q02	R00	C	MP	MAWBEY JOSEPH				
1729	1729	01	Q00	R01		--	MERRICK WILLIAM				
1743	1760	18	Q13	R04		--	METCALF GEORGE				
1728	1728	01	Q01	R01		--	MICKLETHWAITE NATHANIEL				
1757	1759	03	Q03	R00		MP	MOLYNEUX JAMES MORE				
1727	1758	32	Q30	R23	C	--	MOLYNEUX MORE		B		
1757	1757	01	Q01	R00		--	MONTALIEU LEWIS CHARLES				
1733	1740	08	Q01	R02		MP	MOORE WILLIAM				
1731	1738	08	Q01	R03		--	MORE ADRIAN		B		
1736	1760	25	Q18	R08		--	MORETON RICHARD				
1743	1743	01	Q01	R00		MP	MORETON WILLIAM				
1728	1742	15	Q09	R15		--	NICHOLAS JOHN				
1744	1748	05	Q02	R05		--	NICHOLAS WILLIAM				
1760	1760	01	Q01	R00		--	NICHOLAS FRANK				
1760	1760	01	Q01	R00		--	NORMAN JAMES				
1737	1760	24	Q11	R19		--	NORTHEY EDWARD		B		
1753	1753	01	Q01	R00		MP	OGLETHORPE JAMES				
1727	1757	31	Q37	R00	C	MP	ONSLOW ARTHUR			F	T
1733	1753	21	Q15	R03	C	MP	ONSLOW DENZILL		B		
1756	1760	05	Q15	R00		MP	ONSLOW GEORGE				
1728	1747	20	Q17	R04		MP	ONSLOW RICHARD				
1735	1759	25	Q19	R00		MP	ONSLOW RICHARD (Lord)				
1727	1740	14	Q18	R06		MP	ONSLOW THOMAS (Lord)				
1755	1755	01	Q01	R00		MP	ORBY HUNTER THOMAS		B		
1729	1740	12	Q05	R00		--	PALMER JOHN				
1728	1733	06	Q06	R00		--	PALMER SAMUEL				
1754	1754	01	Q01	R00		--	PARRY THOMAS				
1737	1737	01	Q00	R01		--	PAUL ROBERT				
1760	1760	01	Q02	R00		--	PENNICOT WILLIAM				
1741	1741	01	Q01	R00		--	PENNY DEAN				
1728	1737	10	Q02	R03		MP	PERRY MICAJAH			F	T
1758	1758	01	Q01	R00		--	PETTIWARD ROGER				
1735	1744	10	Q00	R10		--	PETTYWARD DANIEL		B		
1728	1738	11	Q16	R09		--	PEYTON CRAVEN				
1752	1756	05	Q06	R01		--	PHILIPS THOMAS				
1729	1736	08	Q04	R01		--	PINNELL RICHARD				
1760	1760	01	Q02	R00		--	PLUMB SAMUEL				
1760	1760	01	Q03	R00		--	PONTON DANIEL		W		
1736	1737	02	Q00	R02		--	PRICE HERBERT				
1742	1744	03	Q01	R01		--	RAWSON JOSHUA				

1735	1736	02	Q01	R01		--	READING JAMES					
1730	1739	10	Q00	R02		--	REYNELL THOMAS					
1733	1733	01	Q01	R00		--	REYNOLD THOMAS					
1744	1751	08	Q01	R03		--	RICHARDSON HAMMETT					
1736	1760	25	Q60	R19	C	--	RICHARDSON WILLIAM					
1727	1733	07	Q06	R01		--	ROFFEY NATHANIEL					
1752	1759	08	Q08	R10		--	ROMAN RICHARD					
1729	1731	03	Q03	R01		--	ROUFFIGNAC GUY					
1728	1738	11	Q05	R04		--	ROWLINSON ROBERT					
1752	1760	09	Q23	R04		--	ROWLLS JOHN					
1729	1732	04	Q01	R03		--	RUSSELL GERARD					
1728	1742	15	Q23	R06		--	RYALL MALTIS		B			
1753	1754	02	Q05	R00		--	SANDERSON EDWARD					
1731	1741	11	Q06	R00		MP	SCAWEN THOMAS			F	T	
1760	1760	01	Q01	R00		--	SEARL CHARLES					
1727	1748	22	Q30	RQQ		MP	SELWYN CHARLES		B	F	T	
1737	1749	13	Q15	R09		--	SEYLIARD JOHN					
1735	1746	12	Q14	R04	C	--	SHARD ABRAHAM		B			
1728	1760	33	Q14	R02		--	SHARD ISAAC					
1738	1758	21	Q02	R15		--	SHAW JOSEPH				T	
1752	1760	09	Q51	R02	C	--	SHAW JOSEPH					
1738	1742	05	Q05	R00		--	SHEPARD RICHARD		B			
1743	1745	03	Q04	R00		--	SMITH JOHN					
1734	1760	27	Q04	R08		--	SPENCER HENRY					
1753	1760	08	Q21	R02		--	SPOONER JOHN			F		
1728	1738	11	Q12	R02		--	STEAVENS THOMAS		B			
1742	1755	14	Q16	R04		--	STILEMAN TIMOTHY		B			
1728	1728	01	Q00	R01		--	STUART JAMES					
1752	1760	09	Q09	R02		--	TALBOT HENRY					
1759	1759	01	Q00	R01		--	TANNER NICHOLAS					
1743	1759	17	Q29	R09		--	TARRANT THOMAS		B			
1728	1743	16	Q17	R03		--	THEOBALD JAMES					
1743	1760	18	Q05	R03		--	THOMAS JOHN					
1741	1741	01	Q01	R00		--	THOMPSON JOSEPH					
1756	1760	05	Q06	R03		MP	THOMPSON PETER				T	
1754	1760	07	Q04	R00		MP	THRALE HENRY					
1738	1754	17	Q06	R02		MP	THRALE RALPH		W		T	
1728	1730	03	Q01	R03		--	TICHBORNE JAMES					
1736	1744	09	Q00	R10		--	TILDEN GEORGE		B			
1735	1759	25	Q21	R10		--	TUCKER ABRAHAM		B			
1753	1760	08	Q09	R01		--	TURNER NICHOLAS					
1729	1758	30	Q03	R11		MP	VERNON CHARLES					
1729	1735	07	Q05	R05		--	VERNON GEORGE					
1729	1729	01	Q00	R03		--	VERNON JAMES					
1727	1727	01	Q01	R01		--	VINCENT FRANCIS		B			
1751	1758	08	Q21	R00		MP	VINCENT FRANCIS (Jr)					
1728	1752	25	Q08	R01		MP	VINCENT HENRY		B			
1760	1760	01	Q01	R00		--	VINCENT JOHN		[W]?			
1745	1749	05	Q02	R00		--	WALTER ABEL					
1732	1741	10	Q04	R00		--	WALTERS GEORGE					
1754	1758	05	Q05	R00		MP	WEBB PHILIP CARTERET		B	F	T	
1760	1760	01	Q01	R00		--	WELCH SAUNDERS					
1728	1730	03	Q04	R03		--	WELHAM GEORGE					
1729	1731	03	Q09	R00		--	WELSH WILLIAM					

1743	1756	14	Q08	R12		--	WESTON HENRY		W
1727	1734	08	Q07	R01		--	WHINCROP SAMUEL		
1729	1731	03	Q08	R00	C	--	WHITAKER EDWARD		
1753	1756	04	Q05	R00		--	WHITAKER WILLIAM		
1736	1739	04	Q03	R00		--	WHITCHURCH JAMES		
1745	1756	12	Q27	R15		--	WILLOUGHBY JOSEPH		
1731	1731	01	Q01	R00		--	WOLFE EDWARD		
1738	1751	14	Q16	R08		--	WOODFORD THOMAS		
1728	1730	03	Q02	R00		--	WOODHAM SAMUEL		
1743	1760	18	Q19	R08		--	WOODROFFE GEORGE		[W]?
1760	1760	01	Q02	R00		--	WOTTON THOMAS		
1728	1730	03	Q00	R03		--	WYATT HENRY		
1728	1738	11	Q02	R05		--	WYVILL JOHN		

TABLE TWO: VERY ACTIVE JUSTICES, SURREY 1727-1760

This table excludes those justices who attended fewer than five Sessions in the course of the reign. The columns to the right of the justices' names show how many attendances each individual put in at Southwark, Reigate, Guildford and Kingston respectively.

								S	R	G	K
1752	1760	09	Q17	R00	C	MP	ABDY ANTHONY	09	01	01	06
1727	1751	25	Q05	R18		--	ALLEN ANTHONY	02	00	01	02
1729	1737	09	Q07	R02		--	AMY JOHN	07	00	00	00
1737	1760	24	Q16	R09		--	ATKINSON SAMUEL	07	03	01	03
1730	1759	30	Q35	R23	C	--	AUSTEN ROBERT	00	01	30	04
1728	1743	16	Q25	R15		--	BALLARD GEORGE	07	09	05	04
1727	1753	27	Q33	R05	C	--	BARKER EDWARD	08	15	06	03
1757	1760	04	Q06	R03		MP	BELCHIER WILLIAM	03	00	02	01
1743	1753	11	Q13	R06		--	BEVOIS THOMAS	07	00	02	04
1752	1760	09	Q26	R03	C	--	BISHOP ELLIOT	09	01	02	14
1743	1760	18	Q19	R07		--	BOOTH ROBERT	13	00	02	04
1753	1759	07	Q11	R02		--	BOWEN ROWLAND	00	10	00	01
1734	1746	13	Q06	R04		--	BRODRICK ALLAN	00	00	06	00
1743	1758	16	Q05	R11		--	BROWNING WILLIAM	02	00	00	03
1727	1739	13	Q23	R09	C	--	BUDGEN JOHN	02	13	07	01
1737	1760	24	Q19	R08		MP	BUDGEN THOMAS	07	03	07	02
1731	1748	18	Q11	R03		MP	CALVERT CHARLES	05	01	00	05
1756	1759	04	Q05	R03		--	CAREW NICHOLAS HACKETT	00	02	01	02
1728	1741	14	Q08	R01		--	CHALMERS ALEXANDER	00	08	00	00
1743	1758	16	Q08	R06		--	CHALMERS ZACHARY	04	00	00	04
1729	1758	30	Q21	R12		--	CLARK JAMES	01	02	01	17
1742	1759	18	Q37	R81	C	--	CLARK WILLIAM	24	05	01	01
1754	1760	07	Q08	R00		--	CLEAR THOMAS	06	00	01	01
1729	1736	08	Q06	R00		--	COCK PETER	06	00	00	00
1752	1759	08	Q05	R02	C	MP	COLEBROOK JAMES	00	05	00	00
1737	1754	18	Q24	R14		--	COPELAND JOHN	15	03	01	05

1743	1760	18	Q30	R01		--	CRESWICKE JOSEPH	23	05	01	01
1754	1760	07	Q27	R18		--	DAWSON THOMAS	14	02	03	06
1752	1759	08	Q06	R09		--	EDGELL WILLIAM	00	01	00	05
1739	1759	21	Q28	R10		--	EDWARDS VIGERUS	05	00	21	02
1730	1743	14	Q08	R00		MP	ELLIOT JOHN	04	00	00	04
1745	1753	09	Q05	R00		MP	ELWILL JOHN	00	00	02	03
1731	1744	14	Q06	R03		--	ENGIER THOMAS	04	00	00	02
1754	1758	05	Q05	R02		MP	EVELYN JAMES	00	02	01	02
1734	1760	27	Q16	R05		MP	EVELYN JOHN	03	04	04	05
1743	1755	13	Q10	R04		MP	FINCH HEANAGE	00	00	08	02
1729	1745	17	Q25	R07		--	FOLLIOTT JOHN	05	09	07	04
1735	1760	26	Q25	R17		--	FULHAM JOHN	01	01	22	01
1748	1754	07	Q05	R00		--	GARRARD ROBERT	00	00	03	02
1729	1742	14	Q06	R00		--	GONSON JOHN	05	01	00	00
1743	1760	18	Q38	R48		MP	HAMMOND WILLIAM	28	01	02	07
1743	1760	18	Q36	R00	C	--	HANKEY THOMAS	16	06	12	11
1728	1757	30	Q46	R01	C	MP	HARDING NICHOLAS	08	03	05	30
1752	1759	08	Q06	R00		--	HARRIS WALTER	03	03	00	00
1729	1739	11	Q10	R05		--	HARVEST WILLIAM	00	01	00	09
1745	1758	14	Q15	R15		--	HEATHFIELD JOHN	04	05	02	04
1735	1759	25	Q16	R03	C	MP	HERVEY JOHN	03	08	01	04
1730	1746	17	Q06	R03		--	HOPSON EDWARD	02	00	03	01
1753	1760	08	Q11	R00		MP	HOWARD THOMAS	02	00	01	08
1727	1746	20	Q15	R27		--	HUCKS THOMAS	13	00	00	02
1728	1737	10	Q07	R06		MP	JOLLIFFE WILLIAM	03	01	01	02
1728	1744	17	Q11	R09		MP	JORDAN THOMAS	00	11	00	00
1728	1754	27	Q08	R01		MP	KENT SAMUEL	02	01	02	03
1738	1745	08	Q12	R13		--	LACEY ROBERT	06	01	01	04
1728	1739	12	Q18	R16	C	MP	LADE JOHN	12	00	00	06
1752	1755	04	Q07	R00		--	LEDIARD THOMAS	03	00	01	03
1736	1741	06	Q06	R12		--	LEIGH WILLIAM	05	00	01	00
1743	1747	05	Q05	R03		--	LONDON EDWARD	00	00	00	05
1729	1735	07	Q15	R01		--	LOVIBOND EDWARD	03	01	04	07
1728	1738	11	Q06	R06		--	MAN JOHN	03	00	00	03
1745	1750	06	Q11	R01		--	MANSHIP JOHN	04	02	03	02
1743	1760	18	Q13	R04		--	METCALF GEORGE	01	00	00	12
1727	1758	32	Q30	R23	C	--	MOLYNEUX MORE	00	01	26	04
1736	1760	25	Q18	R08		--	MORETON RICHARD	02	12	02	02
1728	1742	15	Q09	R15		--	NICHOLAS JOHN	07	01	01	00
1737	1760	24	Q11	R19		--	NORTHEY EDWARD	00	00	01	10
1727	1757	31	Q37	R00	C	MP	ONSLOW ARTHUR	01	01	15	20
1733	1753	21	Q15	R03	C	MP	ONSLOW DENZILL	03	01	05	06
1756	1760	05	Q15	R00		MP	ONSLOW GEORGE	03	01	05	06
1728	1747	20	Q17	R04		MP	ONSLOW RICHARD	04	01	06	06
1735	1759	25	Q19	R00		MP	ONSLOW RICHARD (Lord)	05	00	09	05
1727	1740	14	Q18	R06		MP	ONSLOW THOMAS (Lord)	03	00	14	01
1729	1740	12	Q05	R00		--	PALMER JOHN	00	00	00	05
1728	1733	06	Q06	R00		--	PALMER SAMUEL	04	01	00	01
1728	1738	11	Q16	R09		--	PEYTON CRAVEN	05	09	01	01
1752	1756	05	Q06	R01		--	PHILIPS THOMAS	00	05	02	00
1736	1760	25	Q60	R19	C	--	RICHARDSON WILLIAM	36	01	02	21
1727	1733	07	Q06	R01		--	ROFFEY NATHANIEL	04	00	00	02
1752	1759	08	Q08	R10		--	ROMAN RICHARD	06	01	01	00
1752	1760	09	Q23	R04		--	ROWLLS JOHN	06	02	01	14

1728	1738	11	Q05	R04		--	ROWLINSON ROBERT	00	05	00	00
1728	1742	15	Q23	R06		--	RYALL MALTIS	13	01	02	07
1753	1754	02	Q05	R00		--	SANDERSON EDWARD	03	00	01	01
1731	1741	11	Q06	R00		MP	SCAWEN THOMAS	03	01	01	01
1727	1748	22	Q30	R11		MP	SELWYN CHARLES	01	01	09	19
1737	1749	13	Q15	R09		--	SEYLIARD JOHN	04	09	00	02
1735	1746	12	Q14	R04	C	--	SHARD ABRAHAM	06	03	02	03
1728	1760	33	Q14	R02		--	SHARD ISAAC	13	00	00	01
1752	1760	09	Q51	R02	C	--	SHAW JOSEPH	15	11	09	16
1738	1742	05	Q05	R00		--	SHEPARD RICHARD	03	00	01	01
1753	1760	08	Q21	R02		--	SPOONER JOHN	03	12	03	03
1728	1738	11	Q12	R02		--	STEAVENS THOMAS	10	00	00	02
1742	1755	14	Q16	R04		--	STILEMAN TIMOTHY	03	10	01	02
1752	1760	09	Q09	R02		--	TALBOT HENRY	03	02	03	01
1743	1759	17	Q29	R09		--	TARRANT THOMAS	17	03	02	07
1728	1743	16	Q17	R03		--	THEOBALD JAMES	10	01	02	04
1743	1760	18	Q05	R03		--	THOMAS JOHN	00	04	00	01
1756	1760	05	Q06	R03		MP	THOMPSON PETER	04	01	00	01
1735	1759	25	Q21	R10		--	TUCKER ABRAHAM	06	09	05	01
1738	1754	17	Q06	R02		MP	THRALE RALPH	04	00	01	01
1753	1760	08	Q09	R01		--	TURNER NICHOLAS	02	00	07	00
1729	1735	07	Q05	R05		--	VERNON GEORGE	00	00	05	00
1751	1758	08	Q21	R00		MP	VINCENT FRANCIS (Jr)	01	04	10	06
1728	1752	25	Q08	R01		MP	VINCENT HENRY	00	01	02	05
1754	1758	05	Q05	R00		MP	WEBB PHILIP CARTERET	02	00	02	01
1729	1731	03	Q09	R00		--	WELSH WILLIAM	02	03	02	02
1743	1756	14	Q08	R12		--	WESTON HENRY	00	00	07	01
1727	1734	08	Q07	R01		--	WHINCROP SAMUEL	00	01	01	05
1729	1731	03	Q08	R00	C	--	WHITAKER EDWARD	02	02	01	03
1753	1756	04	Q05	R00		--	WHITAKER WILLIAM	03	00	00	02
1745	1756	12	Q27	R15		--	WILLOUGHBY JOSEPH	13	09	03	02
1738	1751	14	Q16	R08		--	WOODFORD THOMAS	00	00	09	07
1743	1760	18	Q19	R08		--	WOODROFFE GEORGE	01	00	16	02

TABLE THREE: ATTENDANCES AT QUARTER SESSIONS, SURREY 1727-1760

The attendance figures tabulated here were compiled from the court order books. Meetings usually took place at Southwark for the Epiphany sessions, Reigate for Easter, Guildford for Midsummer and Kingston-upon-Thames for Michaelmas. Adjournments took place in the same place as the main sessions, except for Easter 1752 and 1753, Midsummer 1753, Michaelmas 1752 and 1753, when they took place at Southwark. Attendance at adjournments is indicated in parenthesis after the main meeting.

	Epiphany	Easter	Midsummer	Michaelmas
1727	--	--	07	13
1728	10	09	16	13
1729	23	11	14	14
1730	25	13	12	13
1731	13	11	15	14
1732	20	05	11	15
1733	27	06	12	12
1734	20	10	08	07
1735	09	11	10	12
1736	23	07	08	04
1737	16	07	09	05
1738	15	20	10	11
1739	13	07	13	11
1740	05	07	12	13
1741	16	14	10	11
1742	11	08	05	09
1743	13	06	10	51
1744	15	05	10	16
1745	20	07	13	34
1746	26	06	10	16
1747	09	06	07	08
1748	11	05	14	14
1749	14	09	10	05
1750	13	05	06	06
1751	14	05	11	05
1752	12	08 (12)	11	15 (11)
1753	16 (05)	12 (07)	15 (05)	19 (10)
1754	24 (04)	14	31 (02)	13 (09)
1755	12 (06)	06	13	16 (06)
1756	12 (07)	08 (03)	09 (06)	18 (13)(06)
1757	15 (05)(04)	06 (04)	20 (05)	14 (06)
1758	16 (08)	05 (05)	12 (08)	21 (04)
1759	15 (23)	10	05	10 (04)
1760	17 (06)(07)	16 (14)	19 (05)	22

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